

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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16
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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 2nd day of March, 2005
at 9:00 a.m.

The Washington Terrace Hotel
1515 Rhode Island Avenue, NW
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

3-2-05 NOSB Meeting Participants

Chair:	James A. Riddle
Vice Chair:	Kevin O'Rell
Secretary:	Goldie Caughlan

NOSB Members:

Andrea Caroe
David Carter
Gerald Davis
Rigoberto Delgado
Bea James
Hubert Karreman
Rosalie L. Koenig
Michael P. Lacy
Nancy Ostiguy
George Siemon
Julie Weisman

NOP Members:

Richard Mathews
Arthur Neal, Jr.
Barbara Robinson

1	Other Appearances:	
2		
3	Kim Dietz	
4	Mark King	
5	Michael Norman, AAPFCO	
6		
7	Public Comment:	Page:
8		
9	Leslie Zuck, Pennsylvania Certified	91
10	Organic	
11		
12	Tony Acevedo	193

1	INDEX	
2	Agenda Item:	Page:
3	Guest Speaker:	
4	Michael Norman	3
5		
6	Presentation and Consideration of	
7	Committee Action Items:	
8		
9	David Carter, Policy Development	18
10	Andrea Caroe, Accreditation	49
11	Kevin O'Rell, Handling	54
12	George Siemon, Livestock	151
13	Rosalie Koenig, Materials	219
14	Nancy Ostiguy, Crops	281
15		
16	Action Items:	
17	Policy manual cover sheet amendment	35
18	Changes to policy manual, as amended	37
19	Amendment to retain and (7)	44
20	Change to 205.301, as amended	46
21	Accreditation draft document changes	53
22	Status of albumen, as amended	66
23	Organic percentage of tea calculation	99
24	Exclusion of water from tea calculation	102
25	Status of bitter orange	110
26	Retail Certification Question 1 - send	
27	back to committee	128
28	Questions 2 and 3 - send back to committee	130
29	Rule change to 250.239(a)(1) and (b)(2)	153
30	Rule change to 205.239(a)(2)	173
31	Livestock guidance document - post for	
32	public comment	215
33	Materials review procedures amendment	226
34	NOSB internal procedures for Sunset review	252
35	Chemistry 101 moved into Board manual	269
36	Move ferric phosphate to 205.601(h) as	
37	approved substance	286
38	Enhanced natural resource component	299
39	Status of waxed boxes, as amended	307

P R O C E E D I N G S

March 2, 2005

CHAIRPERSON RIDDLE: Okay, if you didn't hear me the first time, would you please take your seats. If you still have conversations, please take them out in the hallway, unless you're a Board member. We need you.

MS. CAUGHLAN: So just be quiet.

CHAIRPERSON RIDDLE: Yeah, then just be quiet. Right. Okay, thanks for being here again, and welcome to day three of our NOSB meeting, and we'll begin this morning with a guest speaker. And so I'd like to introduce Mike Norman. Mike's with the Washington State Department of Agriculture, a fertilizer control official, and Mike will be giving us a report on the recent mid-year meeting of the Association of -- the American Association -- which is it?

MR. NORMAN: Association of American.

CHAIRPERSON RIDDLE: Yeah, the Association of American Plant Food Control Officials -- and the use of the word organic on fertilizer labels.

MR. NORMAN: Thank you for the introduction, Chairman Riddle, and it's a pleasure to be here this morning. I'm here to discuss some issues relating to organic fertilizer labeling. That came from the midyear meeting AAPFCO, February 19 through 23. That was last

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1 week. I am an employee of the Washington State
2 Department of Agriculture, and through that role I'm
3 also a member of AAPFCO, which stands for the
4 Association of American Plant Food Control Officials,
5 and I'm the liaison from AAPFCO to NOSB.

6 The next slide, please. At the meeting last
7 week, the labeling and definitions committee of AAPFCO
8 took motions that were approved the labeling and
9 definitions committee and board of directors to first
10 raise the term organic input and the policy, SUIP --
11 that stands for statement of uniform interpretation
12 policy 28 -- from tentative to official, and to table
13 some requested changes that came from the Organic Trade
14 Association. Those requested changes from the Organic
15 Trade Association to move four terms -- four official
16 terms, currently official, to modify those. Those
17 requested changes were tabled. And those four terms
18 were -- the next slide -- organic fertilizer, natural
19 organic fertilizer, natural fertilizer, and organic-
20 based fertilizer. So the requested changes to those
21 official four terms were tabled to the next meeting of
22 AAPFCO, which is the first week of August in
23 St. Petersburg, Florida.

24 Okay. These -- the term organic input was
25 recommended by the committee and approved by the board

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1 to move from a tentative term to an official term. And
2 organic input reads as follows: "Organic input is a
3 fertilizer whose ingredients comply with the
4 requirements of the National Organic Program Final Rule,
5 as specified in 7 C.F.R. Part 205.

6 The next slide. Okay, this slide -- this
7 policy, SUIP 28, takes three slides, so just bear with
8 me on this. Okay. SUIP 28, labeling of organic input
9 products: Products intended for use as organic inputs
10 may make statements on the product's label that affirm
11 that the product is in accord with the National Organic
12 Program. For example, suitable for organic farming;
13 acceptable for use in organic production; meets National
14 Organic Program requirements for organic production, or
15 meets USDA standards for organic production; and they
16 use the logos issued by recognized agencies, such as
17 OMRI, the USDA, certifying agencies, state programs or
18 other recognized organic input listing services. Such
19 statements about organic inputs are exempt from the
20 requirements pertaining to organic labeling under
21 federal law [ph]. I guess my only real observation from
22 the meeting of AAPFCO by a steering committee was that
23 the term organic can mean different things to different
24 people.

25 The next slide. So organic input and SUIP 28

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1 don't become official official until the entire
2 association of AAPFCO votes on it in Clearwater-St. Pete
3 -- Clearwater-St. Pete in the first week of August. And
4 the current wording of organic input and SUIP 28 will be
5 open for discussion at the next meeting, and all the
6 terms and definitions and policies are always -- the
7 manual is a living document, it comes out annually, and
8 things change all the time. So you can always modify
9 these things with time. You just have to submit
10 comments, which, for the next meeting, would be --
11 submit your comments to me by April 21 and I'll make
12 sure they get to the right place. And the continued
13 participation of NOSB with AAPFCO is encouraged.

14 The next and final slide -- if you have any
15 comments, it should be in e-mail, give me a call or a
16 fax, and I have some cards if -- I might just leave them
17 out there for awhile. If you want my contact
18 information, of course, e-mail's probably the best. But
19 that concludes my presentation. I will be happy to
20 answer any questions.

21 CHAIRPERSON RIDDLE: Yeah, thanks for coming,
22 Mike. Any questions from the Board?

23 ***

24 [No response]

25 ***

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1 CHAIRPERSON RIDDLE: Well, I have one just for
2 clarification. You put up those other four terms, and I
3 know that Organic Trade Association had proposed some
4 changes to those and that's -- those changes are part of
5 the Policy Committee's draft that's in our meeting book,
6 so if people want to see what was proposed for change --
7 well, just two things. With the new term, once it
8 becomes official, the organic input term, that doesn't
9 change the allowance of something being called an
10 organic fertilizer that would be not allowed. So, you
11 know, it's something that contains Uria or sewage sludge
12 could still make the claim organic fertilizer. That --
13 the kind of inconsistency there or contradiction or
14 opportunity for confusion has not be eliminated.
15 There's been an additional claim of organic input being
16 added to the allowed claims, is that correct?

17 MR. NORMAN: Well, the current definition for
18 organic input in SUIP 28 doesn't mean complying with NOP
19 at all times. So in the case of Uria, that's kind of an
20 interesting issue. According AAPFCO, Uria meets the
21 definition of organic, but it fails the definition of
22 organic nitrogen. So there's -- that's an important
23 distinction. And in the case of sewage sludge or
24 biosolids --

25 CHAIRPERSON RIDDLE: Yeah, biosolids, yeah.

1 MR. NORMAN: -- you know, I haven't -- I read
2 the letter last night again, and I wish I had had the
3 foresight to talk a little bit with the AAPFCO board of
4 directors on that. I'm not sure that biosolids would be
5 allowed to be a label. It'll be allowed to say organic
6 on them. But it sounds like it would. I mean, there's
7 still going to be some difficulties, I think.

8 CHAIRPERSON RIDDLE: But the new organic
9 input --

10 MR. NORMAN: No.

11 CHAIRPERSON RIDDLE: Yeah.

12 MR. NORMAN: No.

13 CHAIRPERSON RIDDLE: But the -- there
14 currently are products that are manufactured from
15 biosolids that carry an organic fertilizer claim, and
16 that's one of the concerns, I think, that still remains,
17 I guess.

18 MR. NORMAN: I think that this probably don't.
19 And --

20 CHAIRPERSON RIDDLE: Uh-huh.

21 MR. NORMAN: -- also, AAPFCO has no
22 enforcement authority at all. It's a collection of
23 plant food control officials. Well, because fertilizers
24 are not regulated by the federal government, we have
25 come together cooperatively to try to work by consensus

1 to assist the fertilizer community by trying to promote
2 uniformity in the development of policies and terms and
3 definitions and that type of thing. So AAPFCO itself
4 doesn't really have any legal authority at any level,
5 but states look to it as an important guide to -- as
6 they develop a law or rule, or implement a current law
7 or rule, to try and maintain uniformity.

8 CHAIRPERSON RIDDLE: And you mentioned that
9 comments can be submitted up until April 21 on the
10 organic input and the SUPI --

11 MR. NORMAN: SUIP.

12 CHAIRPERSON RIDDLE: -- SUIP. So if this
13 Board would like to have some input on, you know, that
14 long policy statement, the SUIP, we could do that,
15 direct it to you by April 21, is that correct? But
16 that's still fluid, as I understand --

17 MR. NORMAN: Yes.

18 CHAIRPERSON RIDDLE: -- that if there's some
19 modifications to just help improve the language --

20 MR. NORMAN: Well, the opportunity will be
21 available at the annual meeting, the first week of
22 August, to change organic input in SUIP 28 before it
23 goes to the entire association. That's my understanding
24 right now. I've really only been with AAPFCO two and a
25 half years; the Washington State Department of

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1 Agriculture, just over four. But I looked at last
2 year's agenda and typically what happens, the entire
3 association comes together and they vote on labeling.
4 Like, the labeling and terms committee will meet, and
5 then they all come together at the very end as an entire
6 association and the committees report and the entire
7 association takes action.

8 CHAIRPERSON RIDDLE: Uh-huh. So would just --
9 it would be best to get them to you by April 21, but
10 that's not drop dead, it's so long as the input comes in
11 prior to the early August meeting or --

12 MR. NORMAN: Yeah, you'll definitely be
13 heard --

14 CHAIRPERSON RIDDLE: Uh-huh.

15 MR. NORMAN: -- your comments. Basically, we
16 need a three-month advance to get items on the agenda,
17 in this case, for the labeling and definitions
18 committee. It's three months in advance for the annual
19 meeting, and it's two months in advance for the midyear
20 meeting. So the first week of August would put you in
21 the first week of May, so if you get it to me the third
22 week of April, I'll make sure --

23 CHAIRPERSON RIDDLE: Okay.

24 MR. NORMAN: -- that -- Maryam Khosravifard is
25 the chair, and I can provide -- she would be the person

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1 that all of these go to, and if you want her
2 information, I'll be glad to give it to you, her
3 e-mail --

4 CHAIRPERSON RIDDLE: Okay. Gerry?

5 MR. DAVIS: Jim, I had a question and maybe
6 you could answer it later in our discussion, but I
7 thought maybe I'd better ask it while he's up there.

8 CHAIRPERSON RIDDLE: Yeah.

9 MR. DAVIS: The confusion that I heard about
10 the organic input designation versus just someone making
11 a fertilizer claim of organic, like it contained
12 biosolids or Uria, is there steps being taken within
13 your labeling committees, a step to address that and
14 eliminate the usage of organic, unless it's -- you're
15 going to say organic input and discontinue any other
16 reference to organic in the labeling?

17 MR. NORMAN: Well, I think that's what we're
18 talking about right now. Right now there's a definition
19 for organic and organic input. The definition for
20 organic is official, and the definition for organic
21 input will become official in its current or in a
22 modified state at the annual meeting in St. Petersburg.
23 So it's an issue, you know. That's a problem, from your
24 perspective.

25 MR. DAVIS: So they recognize that that is a

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1 problem and it's not just -- the intention is not just
2 to allow it to continue as is, organic meaning, in your
3 designations, Uria, biosolids, so on and so forth?

4 MR. NORMAN: Well, that's the issue that we're
5 talking about. That really -- that answer to that
6 question just has to work through AAPFCO. And if you
7 want to call, you can, to address that question. But
8 it's -- right now, organic doesn't mean complying with
9 animal feed, which, I think, is where you want to go.
10 Or you tell me.

11 CHAIRPERSON RIDDLE: Yeah, ideally, yes.

12 MR. NORMAN: Right. You're not there yet.

13 CHAIRPERSON RIDDLE: Rose?

14 MS. KOENIG: Yeah. Well, I was just kind of
15 looking at the Policy Committee's document. It was
16 related to that issue. I just had a couple question.
17 So T-12 and the headline, like organic fertilizer T-13,
18 are those your terms?

19 MR. NORMAN: Those are AAPFCO terms.

20 MS. KOENIG: Yeah. So those are the
21 terminology that you all use. And those terms, do they
22 -- how does it look on the -- is that a term that then
23 appears on the bag or the lot or the -- for bulk? I
24 mean, how does that term become part of the -- you know,
25 call it the information panel or whatever -- to a

1 farmer?

2 MR. NORMAN: Well, AAPFCO doesn't enforce any
3 laws or rules, so the answer to that question then is,
4 the labeling on a fertilizer bag is up to the company
5 and the state control officials that review labels in
6 our registration process.

7 MS. KOENIG: So even if you have a definition,
8 that still may not even end up on a bag, it's just --
9 this is sort of your -- you know, your general wish list
10 of how you would like things to be ordered or conform
11 to, because you don't have any regulatory authority on
12 it, do you? Or how does --

13 MR. NORMAN: No, it's an effort by plant food
14 control officials in the states that come together. And
15 since the fertilizer labeling contents and things like
16 that is not regulated by EPA, for instance, say, in the
17 case of pesticides, it's up to the states. So all 50
18 states could operate in a void -- and Puerto Rico and
19 Canada could operate. So it's actually for the whole
20 North American continent. But we all could operate
21 independently, but this an effort for all to come
22 together and wherever possible identify consensus and
23 put that in the manual, which is a very important
24 reference. People look to it in the industry and
25 government agencies when developing laws. But to answer

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1 to your question, it basically comes down to whatever
2 the laws and rules are on the books at the time at the
3 state level and during the registration process and what
4 the fertilizer company submits as a label.

5 MS. KOENIG: Can there be additional -- I
6 mean, you have this T-12 organic and you know, if that
7 mentioned in there is your definition -- I mean, I don't
8 see why -- you know, I want to change it because I'm
9 friendly to organics, but -- I mean, that's pretty much
10 a chemistry book definition and we can argue that it's,
11 you know, a carbonaceous kind of a label. So is there
12 -- do you foresee kind of -- you know, when you need is
13 there -- the general consensus, is there -- what's the
14 general consensus of the group, or does it make sense
15 for us to try identify another word or a -- not
16 necessarily for us to change organic, but -- because
17 we're right here. We're trying to change a definition,
18 which to me sometimes might be harder than actually
19 proposing a new word or a new schematic. I know if I
20 wasn't sympathetic to an industry, I want them to
21 propose a new word rather than changing my working
22 definition as I understand it. So I don't know. That's
23 my question.

24 MR. NORMAN: Well -- yeah. That just has to
25 work through. I don't know how that board will respond

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1 to this entire issue in the future, but you're on track.
2 I wouldn't propose another definition of organic. If
3 you really have a problem with organic, focus on
4 organic, because the more variations there are of
5 organic -- you tell me -- right now we have organic and
6 organic input and I don't think you want to add another.
7 Maybe you do, I don't know.

8 CHAIRPERSON RIDDLE: Okay. Anything else,
9 because we need to wrap up? Yeah, Mike.

10 MR. LACY: Jim, I'm sorry. I just wanted to
11 make sure.

12 CHAIRPERSON RIDDLE: Yeah, no problem.

13 MR. LACY: The people that are part of your
14 organization do have regulatory authority, though.

15 MR. NORMAN: Oh, yeah.

16 MR. LACY: You have state -- you have state
17 officials that have regulatory --

18 MR. NORMAN: Yeah.

19 MR. LACY: -- authority.

20 CHAIRPERSON RIDDLE: Um-hum.

21 MR. NORMAN: Basically the plant food and
22 AAPFCO -- well, it doesn't always -- basically, it's the
23 Association of American Plant Food Control Officials.
24 So it is -- the people who vote are solely those state
25 employees who enforce state laws and rules regarding

1 plant food and fertilizers.

2 CHAIRPERSON RIDDLE: It's a little early for
3 beer. Yeah. And just to follow up on that -- and yeah,
4 the state officials themselves do have the enforcement,
5 regulatory authority, but the association does not. But
6 the association sets uniform definitions that then are
7 used by the state -- most of the state --

8 MR. NORMAN: Voluntarily.

9 CHAIRPERSON RIDDLE: Yeah, voluntarily. They
10 aren't bound by those, but it's a way to bring
11 consistency to the terms that the states then approve
12 and regulate. And this -- these broad changes to all
13 four of those definitions were first introduced this
14 time, so it really stimulated a lively debate. And you
15 know, the debate on this -- you know, addressing the
16 larger issues will continue, as Mike has said.

17 MR. NORMAN: Yes.

18 CHAIRPERSON RIDDLE: But right now the
19 allowance of a new additional claim is on track to be
20 approved, that would then allow those more detailed
21 claims like, fertilizer that complies with NOP
22 regulations could become a legal claim on a fertilizer
23 product, if states still have to act on that after
24 AAPFCO has taken final action as an association, right?

25 MR. NORMAN: Correct.

1 CHAIRPERSON RIDDLE: Yeah. Okay. All right,
2 well, thanks a lot and thanks --

3 MR. NORMAN: Thank you.

4 CHAIRPERSON RIDDLE: -- for being a liaison to
5 the Board here.

6 MR. NORMAN: My pleasure. Thank you. Have a
7 good day.

8 CHAIRPERSON RIDDLE: Thanks, Mike. Okay,
9 well, now to Board actions. So we left off yesterday
10 with the Policy Development Committee still having some
11 items to deal with. So, Dave, I'll turn it over to you.

12 MR. CARTER: Okay, thank you, Mr. Chairman.
13 The -- I think what we'll do is we'll switch up here in
14 the order some things, because we do have at the bottom
15 of the list there of our remaining items the request for
16 NOP support for changes to the use of the work organic
17 in the AAPFCO-approved fertilizer labels. And we did
18 meet the other night to discuss this issue and the items
19 that were just presented by our speaker that came out of
20 the meeting. And accordingly, then, in our committee,
21 the committee voted to take the current draft of this
22 recommendation off the table, with the understanding
23 that we will develop a new proposal before consideration
24 by the Executive Committee prior to the next meeting of
25 AAPFCO. So we want to retool our recommendations in

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1 light of the discussion that they had at the meeting.
2 So this particular draft we're taking off the table.
3 We'll have something to bring forward.

4 CHAIRPERSON RIDDLE: Okay. And now we just
5 heard that they'll be meeting in early August, but Mike
6 would like input by April 21, in order to influence the
7 discussion specifically on the organic input --

8 MR. CARTER: Right.

9 CHAIRPERSON RIDDLE: -- and the SUIP.

10 MR. CARTER: Right.

11 CHAIRPERSON RIDDLE: What would you propose,
12 then, as far as Policy Development, to get something to
13 Executive?

14 MR. CARTER: Well, we already have another
15 item on there for the input on the good guidance for
16 consideration by the Executive Committee by April 4, so
17 I think we'll just run this parallel with that.

18 CHAIRPERSON RIDDLE: Okay. So do we need a
19 motion to authorize the Executive to act on behalf of
20 the Board on providing input here, just to make it
21 clear?

22 MR. CARTER: I don't think we need a motion,
23 because the -- yeah, the Executive Committee has that by
24 default.

25 CHAIRPERSON RIDDLE: Okay, I just wanted to

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1 make that -- make it clear that we wouldn't be somehow
2 vulnerable and accused of acting without the authority
3 of the Board.

4 MR. CARTER: Yeah.

5 CHAIRPERSON RIDDLE: But so long as everyone
6 understands that Policy Development will be drafting
7 something and you'll be circulating it to all Board
8 members, so people not on the Executive should get any
9 input to members of the committee or the Executive
10 Committee so that we can take everyone's opinions into
11 consideration.

12 MR. CARTER: I would never think of doing it
13 any other way.

14 CHAIRPERSON RIDDLE: I don't know why it
15 crossed my mind. Okay, so that wraps up --

16 MR. CARTER: Okay.

17 CHAIRPERSON RIDDLE: -- that item for now.

18 MR. CARTER: So then, we'll go back to the top
19 of the list, and if you will go to the Board policy
20 manual that is in the handbook there. Well, it's under
21 the -- it's under five -- under six. Excuse me. And
22 this represents, primarily, as we talked about in the
23 October meeting, was to get the feedback from NOP on
24 some issues and make sure that what we have in our
25 policy and procedures manual actually complies and helps

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1 us to work with NOP. Barbara did an extensively
2 thorough job in going through and getting us feedback on
3 that. It was extremely helpful. And so we've gone
4 through and made some revisions on that, and we've left
5 this in the -- the document here is in revision mode, so
6 you can kind of go through it and see the changes that
7 are made in the manual.

8 The first sections, again, just going through
9 the duties and responsibilities of the Board members,
10 really nothing significant changed there. The -- when
11 we get back to the principles of organic production and
12 handling, mostly that is just some formatting changes.
13 But when we get into -- yeah.

14 CHAIRPERSON RIDDLE: You jumped back to
15 principles already?

16 MR. CARTER: Oh. Oh, excuse me. Wait a
17 second. The document here -- I'm going to have to pull
18 it up on my computer because my document goes from page
19 11 to page 14.

20 CHAIRPERSON RIDDLE: Oh.

21 MS. ROBINSON: Dave, I have the whole thing.
22 Do you want it?

23 MR. CARTER: Do you have the whole thing?
24 Yeah.

25 CHAIRPERSON RIDDLE: Yeah, I have the whole
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1 thing in mine.

2 MR. CARTER: Okay. Let me just grab yours,
3 Barbara. I've got the cliff notes version.

4 UNIDENTIFIED SPEAKER: There's no changes on
5 12 and 13, is there?

6 CHAIRPERSON RIDDLE: No, no changes, it's
7 just --

8 MR. CARTER: Okay. Okay. Yeah, on page --
9 you know, under the officers' responsibilities on page
10 11, again, no major changes on that. The -- just a
11 second. Okay. The duties of the committee chairs, no
12 major changes. The miscellaneous policies, going down
13 through the policies for surveys, we got the feedback on
14 that, so we're squared away on that. That was something
15 that we'd been working on to -- and was a source of some
16 conflict previously, and so the survey policy now, just
17 so everyone understands, that if we proceed to do
18 anything, the manual clearly states that before they are
19 submitted for approval to the USDA, they have to go
20 through OMB and the whole procedure, which had hung us
21 up in the past.

22 Now going back to section seven, the
23 principles of organic production and handling, primarily
24 just some editing -- formatting changes in that section.

25 MS. ROBINSON: What page are you on, Dave?

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1 MR. CARTER: 19.

2 CHAIRPERSON RIDDLE: Okay. And the version in
3 our book must be in the revision mode --

4 MR. CARTER: Yeah.

5 CHAIRPERSON RIDDLE: -- because it shows
6 there's formatting. So --

7 MR. CARTER: Yeah, that's --

8 CHAIRPERSON RIDDLE: So once the final is
9 approved and you resubmit --

10 MR. CARTER: Yeah, this will be taken out.

11 CHAIRPERSON RIDDLE: Yeah.

12 MR. CARTER: We just -- yeah. We just left
13 this in here so everyone could see what were the
14 revisions being made. The -- going back to page 22, the
15 procedures of the NOSB, I see that we have a change
16 there. We're referencing Rose there, so we need to make
17 another change, an editing change on the materials
18 review process to make sure that that's completely up to
19 date. And Rose had e-mailed back that that was the
20 current one, but I just didn't take that back. So can
21 you double-check on that, Rose?

22 MS. KOENIG: Yeah, because -- I mean, we -- at
23 this meeting we have -- we're going to have to make an
24 abridged form of it, but --

25 MR. CARTER: Okay.

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1 MS. KOENIG: -- we've got it and now and more
2 recent, but we think it's correct, so --

3 MR. CARTER: Yeah. Okay. Going back to page
4 24, we have the TAP contract procedures now in the book
5 to talk about what is the procedure, when do we bring on
6 the TAP contractors. The -- page 25 and 26, again,
7 those are mostly formatting changes going down through
8 there. Talking about the time line now for completion
9 of the TAP procedures. This is new information that we
10 now have in here to provide. And that continues on,
11 then, through page 33. We have the evaluation criteria
12 as a part of the procedures manual now. The -- on page
13 41, the procedures for the material reviews process is
14 now included. On 43, an appendix for the decision
15 making procedures for NOP. And then finally on 44, just
16 a brief summary of the FACA facts for citizen advisory
17 committees, the duties, and a cliff notes version on
18 page 46 of parliamentary procedures.

19 So the manual is getting more comprehensive as
20 we go, and I think we're getting it pretty well set with
21 all of the things that come under, you know, our
22 operational procedures. So we need to have -- or I will
23 make a motion at this point to adopt the updated Board
24 policies and procedures manual as presented.

25 MS. CAUGHLAN: Second.

1 CHAIRPERSON RIDDLE: Is there a second?

2 Goldie seconds. Dave moves and Goldie seconds.

3 Discussion? Andrea?

4 MS. CAROE: I would offer a friendly amendment
5 based on the information that Rose is going to confirm,
6 that --

7 CHAIRPERSON RIDDLE: Speak into your mike.

8 MS. CAROE: Okay. I'd offer a friendly
9 amendment, that the -- the approval be contingent on
10 Rose's verification that the TAP procedure is accurate.

11 MR. CARTER: Okay, I'll accept that --

12 MS. CAUGHLAN: Yes.

13 MR. CARTER: -- as a part of the original
14 motion, if that's okay.

15 CHAIRPERSON RIDDLE: And Rigo.

16 MR. DELGADO: I would also like some time to
17 review it. So if Rose is having some time, can you just
18 give me the opportunity to review it?

19 MR. CARTER: Well, I -- what this is referring
20 about is that what will finally be put into the
21 manual --

22 MR. DELGADO: Um-hum.

23 MR. CARTER: -- is updated information that
24 she will be -- and that will just be the part under --

25 MS. CAUGHLAN: Materials.

1 MS. KOENIG: The TAP.

2 UNIDENTIFIED SPEAKER: The TAP --

3 MR. CARTER: -- the TAP.

4 UNIDENTIFIED SPEAKER: -- procedure.

5 MR. CARTER: Yeah, the TAP procedure. So what
6 we really have here, Rigo, this is -- this is more just
7 a -- this isn't a policy document that we're putting
8 out, this is more just sort of the rules of the road
9 that we operate under. So --

10 MR. DELGADO: Thank you.

11 CHAIRPERSON RIDDLE: Okay. And I would just
12 also ask that -- that the -- and you're already aware of
13 this, that the formatting notes be removed, it be taken
14 out of revision mode, but also on the very cover sheet,
15 that the words policy and procedures manual be --

16 MR. CARTER: Yeah.

17 CHAIRPERSON RIDDLE: -- enlarged in bold, and
18 then the date of our vote be inserted as well. So just
19 all that. You don't need to make that as part of the
20 motion, but just --

21 MR. CARTER: No, no, that's just --

22 CHAIRPERSON RIDDLE: -- a reminder. And also
23 to check on that statement of work to make sure it is
24 the correct and current version, and remove those little
25 bracketed internal notes between committee members.

1 MS. CAUGHLAN: I think what you're saying is
2 you'd like to put it in Jim mode.

3 MR. CARTER: No, it is in Jim mode. Yeah, a
4 lot of it's in --

5 CHAIRPERSON RIDDLE: But I want it in a
6 final --

7 MR. CARTER: -- Jim and Dave mode right now.
8 So it'll be --

9 CHAIRPERSON RIDDLE: Okay. Barbara?

10 MS. ROBINSON: If you recall, Jim -- and I
11 think I did send this to all of the Board. Remember
12 when I sent you an e-mail and made up -- Jim, you got
13 sort of a form, whereby the Board would submit formal
14 recommendations to us?

15 MS. CAUGHLAN: No.

16 CHAIRPERSON RIDDLE: No.

17 MS. KOENIG: I did.

18 MS. ROBINSON: You do, too.

19 MS. KOENIG: I recall something like that.

20 MR. CARTER: Yeah.

21 MS. ROBINSON: Yes, you do, because you sent
22 it back to me and said --

23 CHAIRPERSON RIDDLE: Oh, yeah. Yeah, yeah.
24 The one I didn't like, though.

25 MS. ROBINSON: Yes. Well, but I -- all I can

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1 do here is offer a suggestion that you consider -- as
2 long as you want to have things here like how are you
3 going to present your materials recommendations and
4 those sorts of things, I think it -- you know, it
5 wouldn't be a bad idea if you considered some kind of
6 format, something -- you can take what I sent you and
7 mess with it, you know, edit it, whatever. But that
8 might also be something that we could -- because it does
9 help us put down, you know, the history. You have
10 something formal, a document --

11 UNIDENTIFIED SPEAKER: Jim?

12 CHAIRPERSON RIDDLE: Yeah. And just -- yeah.
13 If I can just respond to that and just explain. Right
14 at the very tail end of our orientation session on
15 Monday, Arthur handed these out, which are -- which is
16 the same that you'd sent around, or maybe a slightly
17 modified, improved, updated version. But the new
18 members haven't seen any of this at all. But
19 essentially, this would be a cover sheet that would go
20 with any final recommendation. Once we've amended it,
21 taken final action, the committee chair polishes it up,
22 resubmits it with this cover sheet that just summarizes,
23 you know, the topic and exactly what the recommendation
24 is and what category it fits under. So this is really a
25 cover sheet. It doesn't replace the recommendations

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1 that we -- that are much -- that are more detailed as
2 far as background and -- yeah, it's a cover sheet to
3 help track and -- yeah. Bea?

4 MS. JAMES: I wanted to make a recommendation
5 that we look at the outline of the presentation that
6 Dave did yesterday, that was very thorough and complete,
7 and see if there's opportunities for using that in how
8 to present recommendations.

9 MR. CARTER: You mean, the thing with the
10 options and then --

11 MS. JAMES: Um-hum.

12 MR. CARTER: -- the pros and cons and then
13 the --

14 MS. JAMES: Right.

15 MR. CARTER: Okay.

16 MS. JAMES: And you have the introduction
17 and --

18 MR. CARTER: Yeah, okay.

19 CHAIRPERSON RIDDLE: Oh, uh-huh. Yeah,
20 currently in the Board manual there is an outline for
21 recommendations.

22 MS. CAROE: Yeah. I'm not so sure that that
23 was what the outline was on Dave's presentation, though,
24 yesterday. So then --

25 CHAIRPERSON RIDDLE: Right, it was a -- it

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1 went beyond that.

2 MS. CAROE: It was more -- yeah.

3 MR. CARTER: It was -- yeah.

4 MS. CAROE: It was very thorough and --

5 CHAIRPERSON RIDDLE: Yeah, uh-huh.

6 MR. CARTER: Okay.

7 MS. CAROE: Yeah.

8 CHAIRPERSON RIDDLE: Right. Are you proposing
9 that as amendment, or is that something for the Policy
10 Committee to put on the work plan to develop?

11 MS. CAROE: Put on the work plan to --

12 CHAIRPERSON RIDDLE: Okay.

13 MS. CAROE: -- develop.

14 CHAIRPERSON RIDDLE: Yeah. All right. So
15 right now this sheet has been circulated, and Barbara is
16 suggesting that we consider inserting this --

17 MS. CAROE: If we have a motion on the floor,
18 can we amend the motion?

19 CHAIRPERSON RIDDLE: You can amend the motion
20 by adding this. So, yes, it is germane. Yes?

21 MS. CAROE: Okay, I offer another motion -- an
22 amendment to the motion to include the format for making
23 -- for formal recommendations.

24 MS. OSTIGUY: Second.

25 CHAIRPERSON RIDDLE: Okay. Is there

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1 discussion?

2 MS. CAROE: Doesn't it have to be --

3 CHAIRPERSON RIDDLE: No, this is not --

4 MS. CAROE: Is there a second motion or is
5 this --

6 CHAIRPERSON RIDDLE: No, your original earlier
7 about Rose, that was a friendly amendment that was
8 accepted by the maker.

9 MR. CARTER: Yeah, I just incorporated that
10 into my original motion, so --

11 CHAIRPERSON RIDDLE: Right. This is new
12 business.

13 MR. CARTER: Yeah.

14 MS. CAROE: Okay.

15 MS. CAUGHLAN: Yeah.

16 CHAIRPERSON RIDDLE: So I'd rather have a
17 separate vote just on this as an amendment.

18 MS. CAROE: Okay.

19 CHAIRPERSON RIDDLE: So this was just passed
20 out. Some of the Board members had seen an earlier
21 version. Is there any discussion, reaction? Mike?

22 MR. LACY: We're voting on this as a new
23 motion rather than an amendment?

24 CHAIRPERSON RIDDLE: Well, it is an amendment
25 to Dave's motion, but it's a stand alone, so we focus

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1 just on the content of this cover sheet.

2 MR. LACY: Then I'd suggest we make it a
3 motion.

4 CHAIRPERSON RIDDLE: It's already been made a
5 motion and seconded. Andrea made the motion and --

6 MR. LACY: That's was my question.

7 CHAIRPERSON RIDDLE: Nancy -- yeah.

8 MR. LACY: I'm sorry, but I misunderstood your
9 answer.

10 CHAIRPERSON RIDDLE: Well, sorry. Probably
11 the first time. Any other discussion just on this cover
12 sheet, to add that to our Board policy manual that's
13 being considered? Yeah, Rigo.

14 MR. DELGADO: Just a question. Can you give a
15 background on how old this document is and -- that we're
16 still working on it and developing it?

17 MR. CARTER: Well, yes. The document itself
18 was created in 2002. I mean, we -- or formally adopted.
19 We worked on it, you know, through the year in 2002 and
20 began to adopt. And then, since then, as issues have
21 come up, we've added things to it, such as the TAP
22 contracts and the forms. So the idea behind this is
23 that, you know, as long as the Board is following the
24 procedures here in our manual, then we're not going to
25 get in hot water with NOP or USDA or, you know, anybody

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1 else. So, yeah. Well, sort of. At least over
2 procedural issues, yeah. Over philosophy, we'll get
3 into lots of hot water.

4 CHAIRPERSON RIDDLE: Yeah, it's it minimize
5 risk.

6 MR. CARTER: Yeah.

7 CHAIRPERSON RIDDLE: Yeah, Rose. And just on
8 the cover sheet.

9 MS. KOENIG: Yeah, the cover sheet.

10 CHAIRPERSON RIDDLE: Yeah, good.

11 MS. KOENIG: The thing that doesn't make sense
12 to me is the response by the NOP, because if we're going
13 to hand this -- our work really is up to that. You
14 know, the NOP's response is not our -- I mean, we don't
15 know, so -- I mean, in essence, it would be blank when
16 we would hand it to you, so --

17 CHAIRPERSON RIDDLE: Um-hum.

18 MS. KOENIG: -- it doesn't seem like something
19 -- unless you meant response at the meeting. Barbara
20 smiled. I think it's going to be okay.

21 MR. LACY: Or maybe desired response.

22 CHAIRPERSON RIDDLE: Well, I think that's --

23 MS. KOENIG: I'm not sure what --

24 CHAIRPERSON RIDDLE: It's a good question, and
25 could you explain how that would be handled?

1 MR. MATHEWS: The intent is that you would
2 submit a recommendation, and we would take your cover
3 sheet and put our answer on it.

4 MS. ROBINSON: It's not intended to be --

5 MR. MATHEWS: And it would be posted on the
6 website.

7 CHAIRPERSON RIDDLE: Okay.

8 MR. MATHEWS: That's what you want answered,
9 right?

10 MS. KOENIG: Right.

11 CHAIRPERSON RIDDLE: Yeah.

12 MS. ROBINSON: It's just a cover sheet. You
13 may have a whole series of technical or you may have a
14 whole lot of paper behind that. That would just simply
15 be a way the we would trap officially --

16 CHAIRPERSON RIDDLE: Um-hum.

17 MS. ROBINSON: -- Board recommendations
18 submitted to us, separate from materials
19 recommendations. Like for example, you make a
20 recommendation to us to write to AAPFCO, right? So you
21 just -- and it would just provide a better way for us to
22 start systematically building the paper trail, the
23 history, that's all.

24 MS. KOENIG: I guess one thing is, with that
25 -- as far as posting. Okay, so we hand it to you. I

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1 would just hate to see things not posted because there's
2 a delay in the response. So would that be -- if we hand
3 it to you, it's not going to be posted, even though that
4 section might be blank for awhile? I mean, how do
5 you --

6 MS. ROBINSON: We can always start of with
7 saying, you know, accepted by NOP. I mean, the first
8 response can be, you know, the NOP recognizes that the
9 recommendation was forwarded to us, and you know, it's
10 being worked on by NOP. No, it shouldn't -- I agree
11 with you, Rose, there's no -- there's no intent to get
12 it and then, you know, not do anything with it, not post
13 it.

14 CHAIRPERSON RIDDLE: Um-hum.

15 MS. ROBINSON: It's more a recordkeeping
16 mechanism.

17 CHAIRPERSON RIDDLE: Okay. Any other
18 discussion just on the cover sheet amendment here?

19 ***

20 [No response]

21 ***

22 CHAIRPERSON RIDDLE: Seeing none, all in favor
23 of adding this to the Board policy manual that then will
24 be voted on next, say aye.

25 BOARD MEMBERS: Aye.

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1 CHAIRPERSON RIDDLE: That's a voice vote. All
2 opposed?

3 ***

4 [No response]

5 ***

6 CHAIRPERSON RIDDLE: Okay. So now this is
7 insert in a proper section and Dave will take care of
8 that as the editor. I'm sure there's debate, then, on
9 the original motion as amended?

10 ***

11 [No response]

12 ***

13 CHAIRPERSON RIDDLE: Okay, seeing none, and
14 now we will go with the roll call vote.

15 MS. JAMES: Jim?

16 CHAIRPERSON RIDDLE: Yes.

17 MS. JAMES: Do I have to make it a motion to
18 put the working policy into effect for making a better
19 outline for presenting the recommendation?

20 MS. CAUGHLAN: Uh-uh, no.

21 CHAIRPERSON RIDDLE: No, but if you would've
22 wanted to stay on the Policy Development Committee --

23 MR. CARTER: Oh, that's cruel, that's cruel.

24 CHAIRPERSON RIDDLE: No, I think the committee
25 hears you and recognizes the need to improve the format,

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1 and just make sure, then, tomorrow, when Dave presents
2 the work plan, that it is on the committee's work plans.
3 So yeah, we don't have to vote on that.

4 MS. JAMES: Okay.

5 CHAIRPERSON RIDDLE: All right. Okay, back to
6 the roll call on adopting the Board policy and
7 procedures manual as amended, and we start with Goldie.

8 MS. CAUGHLAN: Yes.

9 CHAIRPERSON RIDDLE: Yes. Kevin?

10 MR. O'RELL: Yes.

11 CHAIRPERSON RIDDLE: Yes. Andrea?

12 MS. CAROE: Yes.

13 CHAIRPERSON RIDDLE: Yes. Rigo?

14 MR. DELGADO: Yes.

15 CHAIRPERSON RIDDLE: Yes. Hugh? Absent.

16 That would be -- okay, Julie?

17 MS. WEISMAN: Yes.

18 CHAIRPERSON RIDDLE: Gerald?

19 MR. DAVIS: Yes.

20 CHAIRPERSON RIDDLE: Yes. Mike?

21 MR. LACY: Yes.

22 CHAIRPERSON RIDDLE: Nancy?

23 MS. OSTIGUY: Yes.

24 CHAIRPERSON RIDDLE: Dave?

25 MR. CARTER: Yes.

1 CHAIRPERSON RIDDLE: Bea?

2 MS. JAMES: Yes.

3 CHAIRPERSON RIDDLE: George, absent. Rose?

4 MS. KOENIG: Yes.

5 MS. CAUGHLAN: Twelve, zero, zero, two.

6 CHAIRPERSON RIDDLE: And I vote yes, so we
7 have 12 yes -- pardon?

8 MS. CAUGHLAN: Twelve, zero, zero, two?

9 CHAIRPERSON RIDDLE: Yeah, 12 yes, 0 no, 2
10 absent, and no abstentions. Okay. So, Dave, I think
11 you have one more item, is that right?

12 MR. CARTER: Yes, Mr. Chairman, the last item,
13 if you will turn again under tab six, there is the "made
14 with" tab, and this is our recommendation for a change
15 in 205.301. And it is -- refers to a contradiction that
16 is in place currently on the "made with" category,
17 specifically that Section 205.301 indicates that
18 products containing at least 70 percent organically
19 produced ingredients may contain non-organic ingredients
20 produced without regard to the fact that the product may
21 contain organic and non-organic versions of the same
22 ingredient. And what that comes about is because
23 205.301(c) is in conflict essentially with 205.301(f).
24 So the contradictory language in those two areas is
25 creating some problems for certifiers. And as one of

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1 the items, then, we had on our work plan was to
2 recommend a change, and what we are recommending is on
3 the second page there, and that would be strike and (7),
4 and to add some new language so that the statement that
5 the -- 301(c) would now read, products sold, labeled, or
6 represented as "made with organic (specified ingredients
7 or food groups)." Multi-ingredient agricultural
8 products sold, labeled or represented as "made with
9 organic (specified ingredients or food group)" must
10 contain (by weight or fluid volume, excluding water and
11 salt) at least 70 percent organically produced
12 ingredients which are produced and handled pursuant to
13 requirements in subpart C of this part. No ingredients
14 may be produced using prohibited practices, specified in
15 paragraphs (1), (2), and (3) of 205.301(f). No product
16 labeled as made with organic may include organic and
17 non-organic forms of the ingredient. Non-organic
18 ingredients may be produced without regard to paragraphs
19 (4), (5), and (6) of Section 205.301(f). If labeled as
20 containing organically produced ingredients or food
21 groups, such products must be labeled pursuant to
22 205.304.

23 This passed on a committee vote of four yes,
24 zero no. There were two members absent. So,
25 Mr. Chairman, I would make a motion that we approve this

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1 recommendation.

2 CHAIRPERSON RIDDLE: Okay. Is there a second?

3 MS. JAMES: Second.

4 CHAIRPERSON RIDDLE: Bea seconds. Dave moves,
5 Bea seconds. Discussion? Andrea.

6 MS. CAROE: Dave, when we did this work, I
7 don't remember us deleting and (7), because that section
8 specifically refers to the non-organic ingredients and
9 how they are produced.

10 MR. CARTER: Um-hum.

11 MS. CAROE: I thought we were leaving and (7)
12 in, but including the language that -- the language that
13 was added. I don't remember us taking out (7) in that
14 one sentence.

15 MR. CARTER: Yeah, that was the original.

16 MS. CAROE: The reason I object to that is
17 because, then, the non-organic ingredients have to be
18 produced without the use of an organic and a non-organic
19 form, and I didn't think we were going to that level.
20 So a manufacturer who is using a minor non-organic
21 ingredient would have to track how that minor non-
22 organic ingredient was produced, not how their product
23 is being produced and their minor -- it tracks back one
24 level if you mention this statement.

25 MR. CARTER: Well, let me -- okay, run that by
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1 again.

2 MS. CAROE: This sentence refers to how the
3 non-organic ingredient is produced --

4 MR. CARTER: Right.

5 MS. CAROE: -- not what the non-organic
6 ingredient is, but how it is produced. So it tracks
7 back one extra level. It's not saying that your
8 non-organic ingredients have to be strictly organic or
9 strictly non-organic, it's saying that the non-organic
10 ingredient had to be produced using ingredients that
11 were non-organic or organic-only. It tracks back one
12 level.

13 MR. CARTER: Okay.

14 MS. CAROE: I wanted to make it very clear
15 that the non-organic ingredients could not be both --

16 MR. CARTER: Right.

17 MS. CAROE: -- so you couldn't have a label
18 that has both organic cinnamon and non-organic cinnamon
19 in it --

20 MR. CARTER: Right.

21 MS. CAROE: -- for a "made with" product. But
22 this is saying, if you use non-organic cinnamon, that
23 you have to actually track that to make sure there was
24 no organic used in the production of that cinnamon. Do
25 you see what I'm saying? It tracks back --

1 CHAIRPERSON RIDDLE: I do.

2 MS. CAROE: -- one level.

3 MR. CARTER: Okay.

4 MS. CAROE: So and (7) is appropriate in this
5 sentence. The sentence added is clarifying, and we know
6 that there's been confusion in this --

7 MR. CARTER: Okay. So if we leave in -- (7)
8 in there, though, are we --

9 CHAIRPERSON RIDDLE: It allows the use of
10 organic ingredients in the manufacture of the
11 non-organic --

12 MR. CARTER: Non-organic.

13 CHAIRPERSON RIDDLE: -- portion, the 30
14 percent.

15 MR. CARTER: Okay.

16 MS. CAROE: That is correct.

17 CHAIRPERSON RIDDLE: Yeah.

18 MS. CAROE: And those --

19 MR. CARTER: Okay.

20 CHAIRPERSON RIDDLE: Uh-huh.

21 MS. CAROE: And those minor ingredients that
22 are deemed non-organic, you can still have some organic
23 components.

24 MR. CARTER: Yeah.

25 MS. CAROE: You're still designating them --

1 MR. CARTER: Okay.

2 MS. CAROE: -- as non-organic.

3 MR. CARTER: Yeah. Okay. And I'm just saying
4 the procedure -- I mean, that's a substantive change to
5 what the committee voted on, so I would -- let's put
6 that on as an amendment.

7 CHAIRPERSON RIDDLE: Right, we'll have to --

8 MR. CARTER: Yeah.

9 CHAIRPERSON RIDDLE: -- vote on it separately.

10 MR. CARTER: Let's vote on that separately.

11 MS. CAROE: Okay, I offer the amendment to --

12 MS. CAUGHLAN: Put and (7) back in.

13 MS. CAROE: -- include --

14 MR. CARTER: And (7).

15 MS. CAROE: -- the and (7).

16 MR. CARTER: Okay.

17 CHAIRPERSON RIDDLE: Yeah, to remove the
18 strike-out.

19 MR. CARTER: Okay.

20 MS. CAROE: To remove the strike-out of
21 and (7).

22 MR. CARTER: We'll just do the new -- put the
23 language in and remove --

24 MS. CAROE: That's correct.

25 MR. CARTER: -- the strike-out, okay.

1 MS. CAROE: That is correct.

2 MR. CARTER: Okay.

3 CHAIRPERSON RIDDLE: Okay. So there's a
4 motion. Is there a second to removing the strike-out
5 from the and (7) from the --

6 MR. O'RELL: Second.

7 CHAIRPERSON RIDDLE: -- committee's draft?
8 Kevin seconds. Further discussion?

9 ***

10 [No response]

11 ***

12 CHAIRPERSON RIDDLE: Okay, seeing none, I will
13 try a voice vote on just this amendment. All in favor
14 say aye?

15 BOARD MEMBERS: Aye.

16 CHAIRPERSON RIDDLE: Those opposed?

17 ***

18 [No response]

19 ***

20 CHAIRPERSON RIDDLE: Okay, thanks, Andrea. I
21 have a comment as well. Dave, yesterday we did receive
22 a comment from Emily, and I just had it here and now I
23 don't know where I put it. There it is -- that -- to
24 insert the word agricultural in that, after non-organic.
25 Then it would read, non-organic agricultural ingredients

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1 in that underlined sentence --

2 MR. CARTER: Right.

3 CHAIRPERSON RIDDLE: -- in the committee's
4 draft.

5 MR. CARTER: Right.

6 CHAIRPERSON RIDDLE: Because that's to remove
7 confusion that these restrictions only apply to the
8 agricultural --

9 MR. CARTER: Agricultural ingredients.

10 CHAIRPERSON RIDDLE: -- ingredients.

11 MR. CARTER: No. And that's a good -- and I
12 think that's compatible with the committee, you know,
13 was intending. So --

14 CHAIRPERSON RIDDLE: So if someone offered
15 that as a friendly amendment, you would accept it?

16 MR. CARTER: I don't -- yeah. I don't think
17 that's -- I think that's in line with what the committee
18 looked at. So --

19 CHAIRPERSON RIDDLE: And I can't do that.

20 MR. CARTER: Yeah, so if, like, somebody like
21 Andrea would offer that as a friendly amendment --

22 MS. CAROE: Well, it's a friendly amendment to
23 add the word agricultural.

24 MR. CARTER: Okay, the maker of the motion
25 would accept that as a friendly amendment, yes, and

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1 would add that to the --

2 CHAIRPERSON RIDDLE: And who was the original
3 seconder of the original motion?

4 MS. CAROE: I think it's Bea.

5 CHAIRPERSON RIDDLE: It was Bea, yeah.

6 MR. CARTER: Yeah.

7 CHAIRPERSON RIDDLE: Would you accept that?

8 MS. JAMES: Um-hum.

9 CHAIRPERSON RIDDLE: Okay. So that is
10 accepted and consistent with the committee's intent.
11 Okay, so everybody caught there's been a further change.
12 So now, any other discussion on the motion as amended?

13 ***

14 [No response]

15 ***

16 CHAIRPERSON RIDDLE: All right, seeing none,
17 we will proceed with the roll call vote and Kevin first.

18 MR. O'RELL: Yes.

19 CHAIRPERSON RIDDLE: Kevin, yes. Andrea?

20 MS. CAROE: Yes.

21 CHAIRPERSON RIDDLE: Rigo?

22 MR. DELGADO: Yes.

23 CHAIRPERSON RIDDLE: Hugh?

24 MR. KARREMAN: Yes.

25 CHAIRPERSON RIDDLE: Julie?

1 MS. WEISMAN: Yes.

2 CHAIRPERSON RIDDLE: Gerald?

3 MR. DAVIS: Yes.

4 CHAIRPERSON RIDDLE: Mike?

5 MR. LACY: Yes.

6 CHAIRPERSON RIDDLE: Nancy?

7 MS. OSTIGUY: Yes.

8 CHAIRPERSON RIDDLE: Dave?

9 MR. CARTER: Yes.

10 CHAIRPERSON RIDDLE: Bea?

11 MS. JAMES: Yes.

12 CHAIRPERSON RIDDLE: George?

13 MR. SIEMON: Yes.

14 CHAIRPERSON RIDDLE: Rose?

15 MS. KOENIG: Yes.

16 CHAIRPERSON RIDDLE: Goldie?

17 MS. CAUGHLAN: Yes.

18 CHAIRPERSON RIDDLE: And the Chair votes yes,

19 so we have a full slate, unanimous vote, 14 yes, 0 no, 0

20 abstentions. Okay.

21 MR. SIEMON: We're on a roll.

22 MR. CARTER: That's it.

23 CHAIRPERSON RIDDLE: Thanks, Dave. Andrea,

24 are you ready, then, for the Accreditation?

25 MS. CAROE: If we can take five minutes so I

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1 can get it on the projector?

2 CHAIRPERSON RIDDLE: Yeah.

3 MS. CAROE: Because I --

4 CHAIRPERSON RIDDLE: Okay. All right. Well,
5 I hate to take a break and let people escape.

6 MS. CAROE: I just have to transfer it over.

7 CHAIRPERSON RIDDLE: Yeah. No, no, that's
8 fine.

9 MS. CAROE: It's just going to take a minute.

10 CHAIRPERSON RIDDLE: Okay.

11 MS. CAROE: Unless you want to postpone it?

12 CHAIRPERSON RIDDLE: Well, or do we want to go
13 to one of your items or -- I think you're next, right?

14 MR. SIEMON: Andrea's next.

15 UNIDENTIFIED SPEAKER: What do you want to do,
16 just five minutes?

17 MS. CAROE: I just have to get it off of my
18 computer --

19 CHAIRPERSON RIDDLE: Yeah.

20 MS. CAROE: -- and onto the other computer.

21 CHAIRPERSON RIDDLE: Yeah, yeah. Okay. We'll
22 take a five-minute recess for Andrea to regroup and -- I
23 know, but please be disciplined here so we can stay on
24 track. Yeah, the Board members be disciplined.

25 ***

1 [Off the Record]

2 [On the Record]

3 ***

4 CHAIRPERSON RIDDLE: I have a quorum, and so
5 let's go ahead and resume business. And so it's
6 Accreditation Committee. Andrea has some changes to the
7 draft.

8 MS. CAROE: Yes, there were changes made to
9 the draft last night, based on comments received, and
10 the first is at the bottom of page five. I mean -- I'm
11 sorry, the bottom of page one.

12 CHAIRPERSON RIDDLE: Okay, yeah. What tab is
13 this again? And let's get on the --

14 MS. CAROE: It's tab four.

15 CHAIRPERSON RIDDLE: Tab four.

16 MS. CAROE: Richard, can I ask you to tab --
17 to bring us down to the bottom of page one --

18 MR. MATHEWS: Okay.

19 MS. CAROE: -- so that the --

20 MR. MATHEWS: Is this the right document?

21 MS. CAROE: This is the right document.

22 MR. MATHEWS: Okay.

23 MS. CAROE: It just needs to be brought down.

24 CHAIRPERSON RIDDLE: Oh, and then --

25 MR. MATHEWS: Bring it down.

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1 CHAIRPERSON RIDDLE: Just scroll down.

2 MS. CAROE: Right.

3 CHAIRPERSON RIDDLE: All right.

4 MS. CAROE: Thank you. A little bit further.

5 It's red. It's in track mode. There. Oh, blue.

6 MR. MATHEWS: Blue.

7 MS. CAROE: Red on my screen. To address the
8 commenter who suggested that it is important to
9 understand the label claim associated with the
10 particular product that is being certified, we've added
11 the language, in addition, where a processed product is
12 used as an ingredient by an organic end-user, it is
13 imperative that the label claim of the organic
14 ingredient is clearly indicated on the product's
15 certificate. In this way the end-user can demonstrate
16 compliance with the organic content requirements for the
17 product that they are producing. So this again is an
18 allowance for manufacturers who are purchasing processed
19 ingredients to understand at what level those products
20 have been certified so that they can comply with their
21 product requirements.

22 CHAIRPERSON RIDDLE: Excuse me. And that is
23 to explain that a change in the recommendation that'll
24 come up later on.

25 MS. CAROE: That's right. That's background

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1 information.

2 CHAIRPERSON RIDDLE: Yeah.

3 MS. CAROE: And if we go down to the
4 recommendation on page four -- if we go down to the --

5 CHAIRPERSON RIDDLE: Mark?

6 MS. CAROE: -- recommendation on page four --

7 CHAIRPERSON RIDDLE: Mark, if you could scroll
8 -- yeah.

9 MS. CAROE: Continue down to page four.
10 There, right. So we've made the change to the third
11 recommendation. It requires ACAs to use the standard
12 term -- oh, this is a separate issue. There is a change
13 to use "most recent annual update." This, again, was
14 based on comments received during testimony, that the
15 inspectors and the certifiers would benefit from
16 understanding that the operation has been in compliance.
17 It's not a perfect fix. There's an 18-month period that
18 an operation can be in compliance from their last annual
19 visit. But this will prevent a three-year-old
20 certification that's not been renewed from being
21 representing -- representing the company as organic. So
22 that change was made.

23 CHAIRPERSON RIDDLE: And if I could just add
24 to that, that that is a phrase that's used in the rule
25 in Section 204.406(b), is where the reference to the

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1 inspection and then the scheduled date of annual update.
2 So it's a phrase taken from the language of the rule.

3 MS. CAROE: Right. And then section four --
4 recommendation four, we added the language that requires
5 the label claim, or the labeling category under which
6 products are approved, to be also disclosed on the
7 certificate. Those are the only changes that were made
8 to this recommendation.

9 CHAIRPERSON RIDDLE: Okay. So would you like
10 to move the draft as presented?

11 MS. CAROE: Yes. Can I make the motion?

12 CHAIRPERSON RIDDLE: Yes, yes.

13 MS. CAROE: Okay, I make the motion --

14 CHAIRPERSON RIDDLE: I can't. I'm about the
15 only one who can't.

16 MS. CAROE: Okay, I make the motion, then,
17 that this recommendation be approved as amended.

18 MS. CAUGHLAN: Second.

19 CHAIRPERSON RIDDLE: Okay, moved by Andrea,
20 seconded by Goldie. Any further -- any discussion? Not
21 further, but any discussion?

22 ***

23 [No response]

24 ***

25 CHAIRPERSON RIDDLE: Yeah? Well, seeing no

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1 discussion, we'll go to a vote. So -- and this once
2 again will be a roll call vote. And let me make -- get
3 my notes here. Just a second. And we start with
4 Andrea. Andrea?

5 MS. CAROE: Yes.

6 CHAIRPERSON RIDDLE: Yes. Rigo.

7 MR. DELGADO: Yes.

8 CHAIRPERSON RIDDLE: Hugh?

9 MR. KARREMAN: Yes.

10 CHAIRPERSON RIDDLE: Julie?

11 MS. WEISMAN: Yes.

12 CHAIRPERSON RIDDLE: Gerald?

13 MR. DAVIS: I abstain.

14 CHAIRPERSON RIDDLE: Mike?

15 MR. LACY: Yes.

16 CHAIRPERSON RIDDLE: Nancy? Absent. Dave?

17 MR. CARTER: Yes.

18 CHAIRPERSON RIDDLE: Bea?

19 MS. JAMES: Abstained.

20 CHAIRPERSON RIDDLE: George?

21 MR. SIEMON: Yes.

22 CHAIRPERSON RIDDLE: Rose?

23 MS. KOENIG: Yes.

24 CHAIRPERSON RIDDLE: Goldie?

25 MS. CAUGHLAN: Yes.

1 CHAIRPERSON RIDDLE: Kevin?

2 MR. O'RELL: Yes.

3 CHAIRPERSON RIDDLE: And the Chair votes yes.

4 So we have 11 yes, 0 no, 2 abstentions, and 1 absent.

5 MR. SIEMON: I think we can set a record for
6 most votes without a no vote here.

7 CHAIRPERSON RIDDLE: Well, let's keep working
8 on it.

9 MR. CARTER: I was about to vote no on the
10 policy manual just to break the --

11 MR. SIEMON: Well, I'm getting worried here.

12 CHAIRPERSON RIDDLE: Okay, thanks, Andrea, and
13 thanks to the committee for dealing with those comments
14 in a timely manner. Okay, now we go to the Handling
15 Committee. So, Kevin, take it away and I'll scoot the
16 mike over the best I can.

17 MR. O'RELL: The first item on the agenda for
18 the Handling Committee is a Q and A regarding the status
19 albumen. Albumen is used in the process of winemaking.
20 It's a clarifying agent. The NOP was asked for the
21 status of albumen in regard to the winemaking process
22 and under the current NOP regulations. Albumen is
23 derived from egg whites. It's a common binding agent or
24 clarifying agent in winemaking. And what we have done
25 is taken this as a specific that was passed to the

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1 Handling Committee. The question was, is albumen
2 allowed for use in the clarification process during
3 organic winemaking under the current regulation? The
4 NOS -- or the Handling Committee recommendation was that
5 this ingredient, albumen, needs to be petitioned. Our
6 rationale was that without a petition and technical
7 review, there was not enough information that was
8 provided to us to determine if albumen was agricultural
9 or nonagricultural with the process in extraction. And
10 if was agricultural, if there would be a commercially
11 available organic form. Section 205.105(c) prohibits
12 the use of nonagricultural substances used in or on
13 products, except as otherwise provided in 205.605. And
14 205.105 -- Section 205.105(b) prohibits the use of
15 non-organic agricultural products used in or on the
16 processed products, except as otherwise provided for in
17 205.606. And because albumen does not appear on the
18 National List, it was our feeling it needed to be
19 petitioned. So I'm going to enter this in as a motion
20 for our recommendation. I would move that the NOS --
21 move that this ingredient, albumen, needs to be
22 petitioned.

23 MS. CAROE: I'll second.

24 CHAIRPERSON RIDDLE: Okay. Before we start
25 discussion, are there any Board members that have any

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1 interest to declare on either albumen or winemaking?

2 MR. SIEMON: I'm an egg farmer.

3 CHAIRPERSON RIDDLE: You're an egg farmer.

4 MR. O'RELL: Or you like wine.

5 CHAIRPERSON RIDDLE: Or you like wine.

6 MR. CARTER: I drink a lot of wine.

7 MS. JAMES: Yeah, I like wine.

8 CHAIRPERSON RIDDLE: Yeah. Well, I don't
9 think the egg farmer would rise to the level of a
10 conflict. Okay, discussion?

11 MR. O'RELL: Mike?

12 MR. LACY: I'm assuming that it's just because
13 the albumen is dried that it's not considered an
14 agricultural product.

15 MR. O'RELL: Well, we don't have -- we don't
16 have a petition. A TAP hasn't been filed on albumen or
17 a petition hasn't been filed, so we don't know the
18 manufacturing process, if there would be any other
19 inputs that would need to be considered in the process
20 of extracting the albumen.

21 MR. LACY: But albumen itself would be
22 agricultural, it's just the process that you're
23 concerned about?

24 MR. O'RELL: Yes. All right. George?

25 MR. SIEMON: But, Mike, is albumen just egg

1 whites?

2 MR. O'RELL: Yeah.

3 MR. SIEMON: Well then, it seems to me that if
4 it's just egg whites and someone dries it, that it
5 should be almost that we're allowing it, unless it was
6 produced by a natural substance for drying. But we're
7 not just looking at it as an agricultural product and
8 we're not going to allow it be used.

9 MS. CAUGHLAN: Because we don't.

10 MR. O'RELL: What --

11 MR. SIEMON: But we don't know about every
12 natural agricultural --

13 MR. O'RELL: George, what we're just saying
14 is, if a person wants to know an answer to the question
15 of albumen, just file a petition stating what it is,
16 what the process is, what form it's in, and an easy
17 determination could be made by -- by the NOP or the NOSB
18 that it's an agricultural product. But without that
19 information -- we're not given that information. That
20 was the concern of the Handling Committee, we were not
21 given any information.

22 MR. SIEMON: I guess my question would be for
23 NOP, in general, how they would handle this. I guess I
24 understand your position.

25 MR. O'RELL: Right.

1 MR. SIEMON: And the other thing I wanted to
2 say is it's also used in -- for clarifying maple syrup.
3 So that's another use.

4 MR. O'RELL: And those are other uses that the
5 petition needs to identify. We don't have those. Hugh?

6 MR. KARREMAN: What he questioned, albumen, at
7 least in my thoughts of it, is natural. If it's
8 natural, why would it have to be petitioned or reviewed
9 and all that? What he questioned.

10 MR. O'RELL: Well, if it's organic -- if it's
11 an agricultural product, then it would need to be
12 organic. So we need to determine and make sure that the
13 process involved in the form of albumen that's being
14 asked to be used meets the requirements for
15 agricultural. Then it would have to be a organic. If
16 it's a natural substance and not agricultural, it would
17 have to be on the list at 205.605(a).

18 CHAIRPERSON RIDDLE: Just to clarify, there's
19 two different structures for the list. For crops and
20 livestock, if it's natural it can be used without being
21 on the list. For processed products, it must be on the
22 list to be used, unless it's organic.

23 MS. JAMES: Michael, I have a question.
24 Albumen, is that another -- isn't that the protein of
25 the egg white or is that just the white? Is it just the

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1 white?

2 MR. O'RELL: The -- do you want to answer,
3 Michael?

4 MR. LACY: Well, from a poultry science
5 perspective, the albumen is considered the egg white.

6 MR. O'RELL: And just for additional
7 information, the egg white is comprised of about 85
8 percent water and 10 percent protein. It has some
9 lipids, some fats, some trace minerals. So albumen is a
10 portion --

11 MS. JAMES: They're removing the water,
12 correct, except for the wine production?

13 MR. DAVIS: In the concentrated form.

14 MR. O'RELL: Well, that's --

15 MS. JAMES: Yet to be determined.

16 MR. O'RELL: -- yet to be determined.

17 MS. JAMES: Okay. So we just need more
18 information.

19 CHAIRPERSON RIDDLE: Kim.

20 MR. O'RELL: Kim.

21 MS. DIETZ: Just a point of clarification for
22 new Board members. The Q and A coming back to the
23 committee is a new process. This is something that's
24 out of the collaboration and giving you more information
25 on materials to work with. The real issue came to the

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1 Handling Committee of whether or not this material needs
2 to be petitioned, and that's the question they answered.
3 So if you guys don't debate it, really, you can't do
4 anything without a petition, and you have to go through
5 that process.

6 MR. SIEMON: I'm still confused. People are
7 selling organic egg whites right today in cartons. So
8 if there's an organic egg white that's dried -- I can't
9 say the word -- and that's still -- I don't know why you
10 have to petition that. It's nonfat dried milk when I
11 sell nonfat dried milk.

12 MR. O'RELL: If there -- if it's organic,
13 there's no problem, there's no problem. What we're
14 being asked, again, George, as Kim had said, this is a
15 question that's coming to us from the NOP. We're just
16 saying that we don't have enough information. It's
17 albumen. We don't know the form, we don't know the
18 process.

19 MR. SIEMON: But if there was dried -- this
20 albumen, today, if somebody could use it --

21 CHAIRPERSON RIDDLE: Organic.

22 MR. SIEMON: Organic.

23 CHAIRPERSON RIDDLE: Organic.

24 MR. O'RELL: Organic, yes.

25 MR. SIEMON: -- somebody could use it?

1 MR. O'RELL: Yes, definitely. Yes.

2 MR. SIEMON: So I'm a little -- why wouldn't
3 we just say, at that point -- it's available today,
4 commercial available?

5 [Simultaneous comments]

6 MR. O'RELL: I wonder if the binding agent
7 that's being used is extracted from egg white, albumen
8 protein? It's a portion of those albumen proteins that
9 make up 10 percent of the egg white and it's solvent
10 extracted.

11 MR. SIEMON: Okay, all right.

12 MR. O'RELL: That was a point of the Handling
13 Committee, we don't know, we don't understand, and if
14 somebody just asked me for clarification of albumen, if
15 it's not organic and it's not clearly agricultural, they
16 need to file a petition so that we understand, and
17 that's all that we're -- this is a new format for us on
18 these Q and A's. No further discussion? Rose?

19 MS. KOENIG: I guess the only thing -- I guess
20 what I'm understanding the Board is you could make a
21 sentence just as you stated, that there may -- there are
22 or may be -- there could be acceptable forms of albumen
23 and they would be, but we don't know whether that is --
24 we don't have the clarification. So it's just
25 acknowledging that -- that it could be, you know,

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1 organic. Yeah, in one case, would it be okay? But in
2 this case, you feel we may need a petition.

3 MR. : Are you adding a motion or are you --

4 MS. KOENIG: It's just a discussion. I mean,
5 I could motion. It sounds like that's the thing that
6 George is --

7 CHAIRPERSON RIDDLE: You could offer to amend
8 the motion with a sentence saying organic albumen would
9 not need to be petitioned. Organic albumen would be
10 allowed by definition.

11 MR. SIEMON: That satisfies all the other
12 conditions.

13 MR. O'RELL: That would -- as a friendly
14 amendment?

15 MS. CAUGHLAN: Yeah.

16 MR. O'RELL: That's the intent. So we
17 wouldn't have a problem with that. A seconder?

18 MR. KARREMAN: I'll second.

19 MS. CAROE: No problem.

20 CHAIRPERSON RIDDLE: Okay. So Rose made that
21 motion and Andrea seconded.

22 MS. CAROE: No --

23 MR. O'RELL: No.

24 MS. CAROE: -- I accepted.

25 CHAIRPERSON RIDDLE: Oh, then you will be --

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1 yeah, yeah, it didn't need to be seconded from her. She
2 offered it as a friendly amendment.

3 MR. O'RELL: A friendly amendment.

4 MS. CAROE: And I --

5 MR. O'RELL: It's accepted.

6 MS. CAROE: And I accepted.

7 CHAIRPERSON RIDDLE: Right.

8 MR. O'RELL: And the seconder --

9 CHAIRPERSON RIDDLE: Right, yeah.

10 MR. O'RELL: -- accepted it.

11 CHAIRPERSON RIDDLE: Thank you.

12 MR. O'RELL: So, Rose, once again, if there's
13 a source of organic albumen --

14 MS. KOENIG: I mean, that's not the wording.
15 I just wasn't clear. If you could just identify that
16 the committee has a term that --

17 MR. O'RELL: Right.

18 MS. KOENIG: -- you know, what is acceptable
19 as organic.

20 MR. O'RELL: We could just organic albumen --

21 MS. CAROE: Should be allowed, but it's not --

22 CHAIRPERSON RIDDLE: Would be allowed by
23 definition.

24 MR. O'RELL: Would be allowed by definition.

25 CHAIRPERSON RIDDLE: Uh-huh. You don't need

1 to speculate --

2 MR. O'RELL: No, no, let's not go further.

3 CHAIRPERSON RIDDLE: -- on the -- it's just --
4 it would be allowed.

5 MR. O'RELL: It would be allowed. Yes, we
6 would accept that. Okay. Julie.

7 MS. WEISMAN: I hate to mucky up the waters
8 here.

9 CHAIRPERSON RIDDLE: It's your turn.

10 MR. SIEMON: Welcome aboard.

11 MS. WEISMAN: There's an issue proceeding this
12 as to whether it is ag or nonag? Did I hear that
13 correctly? That was part of the question in --

14 MR. O'RELL: Well --

15 MS. CAUGHLAN: It's part of our procedure.

16 MS. WEISMAN: -- and the same thing was
17 discussed yesterday in terms of yeast. How can we say
18 that it's organic? We haven't yet determined whether it
19 is agricultural or nonagricultural.

20 MS. CAROE: That's a issue.

21 MS. WEISMAN: Okay, all right.

22 MR. O'RELL: That's --

23 MS. WEISMAN: A working question.

24 MR. O'RELL: That's a work in progress, but a
25 good point.

1 CHAIRPERSON RIDDLE: And clearly, this is a
2 derivative of an agricultural --

3 MR. O'RELL: Yes.

4 CHAIRPERSON RIDDLE: -- product.

5 MR. O'RELL: Nobody --

6 CHAIRPERSON RIDDLE: It comes from eggs.

7 MR. O'RELL: There's no question that it's
8 agricultural roots. The only concern was, we don't have
9 information in front of us as for the manufacturing
10 process to -- and in what form the albumen is, is a
11 particular -- there are several albumen proteins. Are
12 these specific proteins? Lysozyme, which we've also
13 voted on, is a component of albumen proteins, and
14 there's about four or five, Michael, I believe, albumen
15 proteins that compromise albumen. And so we just don't
16 know.

17 [Simultaneous comments]

18 CHAIRPERSON RIDDLE: Yeah, we'll talk about
19 compromising proteins.

20 MR. O'RELL: So --

21 CHAIRPERSON RIDDLE: Okay. So it's been --
22 it's been amended, friendly amended, has been accepted.
23 Is there any further discussion?

24 ***

25 [No response]

1 ***

2 CHAIRPERSON RIDDLE: Does anyone need me to
3 read back over the friendly amendment?

4 ***

5 [No response]

6 ***

7 CHAIRPERSON RIDDLE: Everybody understands
8 that. Okay, then we will move on to the vote, and we
9 start with Rigo.

10 MR. DELGADO: Yes.

11 CHAIRPERSON RIDDLE: Yes. Hugh?

12 MR. KARREMAN: Yeah.

13 CHAIRPERSON RIDDLE: Yes?

14 MR. KARREMAN: Yeah.

15 CHAIRPERSON RIDDLE: Julie?

16 MS. WEISMAN: Yes.

17 CHAIRPERSON RIDDLE: Yes. Gerald?

18 MR. DAVIS: Yes.

19 CHAIRPERSON RIDDLE: Yes. Mike?

20 MR. LACY: Yes.

21 CHAIRPERSON RIDDLE: Yes. Nancy?

22 MS. OSTIGUY: Yes.

23 CHAIRPERSON RIDDLE: Yes. Dave?

24 MR. CARTER: Yes.

25 CHAIRPERSON RIDDLE: Yes. Bea?

1 MS. JAMES: Yes.

2 CHAIRPERSON RIDDLE: George?

3 MR. SIEMON: Yes.

4 CHAIRPERSON RIDDLE: Rose?

5 MS. KOENIG: Yes.

6 CHAIRPERSON RIDDLE: Goldie?

7 MS. CAUGHLAN: Yes.

8 CHAIRPERSON RIDDLE: Kevin?

9 MR. O'RELL: Yes.

10 CHAIRPERSON RIDDLE: Andrea?

11 MS. CAROE: Yes.

12 CHAIRPERSON RIDDLE: And the Chair votes yes,
13 so we have another unanimous vote, 14, 0, 0, 0. All
14 right. Kevin?

15 MR. O'RELL: The second action item from the
16 Handling Committee is regarding a tea calculation Q and
17 A. Again, I've asked Julie if she would present this
18 proposal, or motion -- recommendation.

19 MR. MATHEWS: Hey, Jim, since we're the ones
20 that got to enforce this, I'd like to ask a question.
21 The saying that it has to be organic works for organic
22 wine. It doesn't work for "made with," because the
23 agricultural product does not have to be organic if it's
24 used in a "made with" product.

25 CHAIRPERSON RIDDLE: Andrea, would you like to
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1 respond?

2 MS. CAROE: The motion did not say that it has
3 to be organic, all it said is, if it is organic, it is
4 allowed. It didn't say that it has to be organic.

5 MR. MATHEWS: But what about "made with" wine
6 that could be making it with a non-organic version?

7 MS. CAROE: Well, in that situation is where
8 we want more information on the technique for
9 manufacturing that product. It possibly could be
10 allowed as well -- probably is allowed as well. But
11 until we have more information, we cannot make that
12 statement. The only statement we can make definitively
13 is, if it is organic for sure, it's allowed by
14 definition.

15 MR. MATHEWS: Okay. But my concern is that we
16 have certifying agents worldwide who are certifying
17 wines right now as either organic or "made with," that
18 my guess is, if they're a white wine, they're using
19 albumen. How are we supposed to be enforcing this?

20 CHAIRPERSON RIDDLE: Well, my answer would be
21 the same as the committee, that it's a processing aid
22 that would need to be petitioned.

23 MR. MATHEWS: Okay. But you realize that you
24 are now asking me to issue a directive to all certifying
25 agents telling them that everyone has to stop using

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1 albumen until such time as this Board makes a decision
2 on this product? All white wines will come off the
3 market if they're using albumen, and they are.

4 CHAIRPERSON RIDDLE: Andrea?

5 MS. CAROE: Well, I mean, a certifying agent
6 can do this investigation and determine that it's
7 agricultural and that there is no prohibited materials
8 involved, and then it's an allowed --

9 MR. MATHEWS: Now you're delegating --

10 MS. CAROE: -- non-organic ingredient. Well,
11 hold on one second. This is a Q and A response, and the
12 Q and A response is, if I were a certifying agent in
13 that situation, I could get the information. Asking
14 this Board without the information, we cannot come to a
15 determination.

16 MR. MATHEWS: But you're now delegating your
17 responsibility for the determinations on materials to a
18 certifying agent with that answer.

19 MS. CAROE: That's not correct. I don't agree
20 with that. We're not saying that this material
21 necessarily has to be listed. We are saying that the
22 petition should be submitted for us to make an
23 evaluation on whether that has to be listed or not. If
24 it indeed does not have to be listed, a certifying agent
25 has the authority to allow their certified entities to

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34 North George St., York, PA 17401 - (717) 854-0077

1 use that material. The certified entity, if they
2 receive that information and determine that it was a
3 synthetic or a nonagricultural material, would deny it
4 until it was listed.

5 MS. DIETZ: Do you need to clarify that on
6 your statement for Richard's concern?

7 CHAIRPERSON RIDDLE: Yeah, I don't think so.
8 I mean, it would've been nice to have had more
9 background from the Program for the committee to
10 consider in advance.

11 MR. O'RELL: Well, and all of this -- the
12 discussion of the Handling Committee getting to this
13 recommendation, the NOP was involved in that discussion
14 and on the call. Again, we weren't asking for
15 information, but saying we don't have all the
16 information you're asking us to answer a question that
17 we don't have the information to respond properly.

18 MR. MATHEWS: But this gets me down to the
19 point -- this is the same issue that we work with in the
20 office all the time, and that's why -- and we've been
21 criticized for answering questions. And so we have been
22 pushing the questions to the Board, and I don't know how
23 we answer this person's question, based on what you just
24 voted on, because you voted on saying that it has to be
25 organic, but there's too many if buts.

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1 MR. O'RELL: No, no --

2 MS. CAROE: No, that's not we said.

3 MR. O'RELL: -- that's not what the motion --
4 it indicated. The motion had indicated that the albumen
5 needs to be petitioned. If there's an organic form of
6 albumen, it's acceptable.

7 MR. MATHEWS: Okay. But that means that all
8 non-organic forms are unacceptable until you guys review
9 the materials.

10 MS. CAROE: No, that's not true.

11 CHAIRPERSON RIDDLE: And after the summary
12 judgment, that may be the case. But right now --

13 MR. MATHEWS: Not if it's agricultural. If
14 it's agricultural and it's used in a "made with"
15 product, it doesn't have to be on the list. If it's
16 agricultural and is used in an organic product, it has
17 to be on 606. If it's nonagricultural and is synthetic,
18 then you're right, the Harvey case is going to have an
19 influence.

20 MR. O'RELL: But -- okay, go ahead.

21 MS. CAROE: No, go ahead.

22 MR. O'RELL: How can we determine if it's an
23 agricultural product when we don't have any information
24 about the manufacture or the process of the material in
25 question? Kim, would you like to --

1 MS. DIETZ: This has come up in the past,
2 Richard, and when anybody ahs asked this Board to
3 determine whether something is agricultural or
4 nonagricultural, synthetic or nonsynthetic, we at least
5 have more information, such as a petition, to help the
6 committee decide. And in this case, because -- again,
7 we'll just reiterate. Because we didn't have the
8 information, we had to give you the answer that we did.
9 If they want this Board to answer that question, and not
10 their certifying agent, then you got the answer that you
11 got because we don't have the information in front of
12 us. So -- and Andrea said, if it -- the certifiers do
13 have the ability to determine if something's
14 agricultural --

15 MR. MATHEWS: Yes.

16 MS. DIETZ: -- and non-organic.

17 MR. MATHEWS: But they would have to do the
18 same research that this Board would have to do --

19 MS. DIETZ: Absolutely.

20 MR. MATHEWS: -- to answer the same question.
21 And oftentimes certifying agents will just tell their
22 clients to task us.

23 MS. DIETZ: Um-hum. So in this case --

24 MR. MATHEWS: And this -- and we've been
25 asked.

1 MS. DIETZ: So they need to provide this Board
2 more information if they want the right answer.

3 CHAIRPERSON RIDDLE: And Rose?

4 MS. KOENIG: I mean, what I -- I mean, I think
5 what Richard is asking is that clearly, in our motion,
6 we made a statement, but that doesn't provide enough
7 detail as to the guidance. So I suggest that the
8 Handling Committee -- I mean, that motion has been
9 accepted, but if we could provide maybe a fuller
10 statement of clarification, just so that it's -- so that
11 our position is understood, maybe in a document which is
12 not in the -- in the recommendation.

13 MR. O'RELL: Well, I think we could certainly
14 reconsider, but the issue is that we had a motion, we
15 voted, it's passed the Board. We're saying we need --
16 we don't have the information here today for us to
17 provide guidance, speculation, or anything on material
18 that we don't know anything about that specifically
19 wasn't addressed in a petition, I think is not wise.

20 MS. KOENIG: No. And I'm not suggesting that.
21 But Andrea gave some suggestions as far as the scenarios
22 or the implications of that, and I think that that might
23 just be a useful thing to write down to really make it
24 clear, because I'm not sure if Richard had clarity. I
25 don't know. I mean -- I mean, you're asking us

1 something -- I mean, I think that we should give you --
2 if you don't think our motion was clear to provide you
3 with the information, did you feel what Andrea said was
4 clear? I mean, do you want us to write that down? I'm
5 trying to make it --

6 MR. O'RELL: Richard, could I ask --

7 MR. MATHEWS: We can do this another time. I
8 just -- at this point I don't know how to advise
9 certifying agents and winemakers, okay?

10 MR. O'RELL: Bea and then Andrea. Oh, Mark.

11 MS. JAMES: I guess I just have a -- I have a
12 question. Are you -- are we assuming, are we actually
13 -- is it read in between the lines that by saying that
14 organic albumen is acceptable, that that means that
15 non-organic is not acceptable? I think that there's an
16 assumption there, and that that's what I'm hearing from
17 you, is that you think that it's going to be interpreted
18 that non-organic is unacceptable and I don't think
19 that's what we're saying here.

20 MR. MATHEWS: Well, that's the way I was
21 interpreting it.

22 MS. JAMES: I think that we're saying is that
23 there needs to be kind of this grace period before that
24 decision is made, because we need more information
25 before we can make that decision.

1 MR. O'RELL: I'd like to call on Mark, who
2 was also on the Handling Committee during the time we
3 had this discussion and voted on this item, and then
4 Andrea has a point of clarification, and then let's --

5 CHAIRPERSON RIDDLE: And Julie, also.

6 MR. O'RELL: And then Julie.

7 MS. WEISMAN: Maybe, depending on what --

8 CHAIRPERSON RIDDLE: Maybe.

9 MR. O'RELL: Okay.

10 MR. KING: I'll be brief. Mark King, for the
11 record. Rick, I have a question. To me this is about
12 process as much as anything, and when I looked at some
13 of the Q and A's, not just this one, the lack of
14 information makes it difficult for the Board to make,
15 you know, a reasonable determination. And this stems, I
16 think, from our ongoing collaborative process. So I
17 thank you for, you know, involving the Board, and I
18 think that's a good thing. But in terms of what
19 emaciates [ph] the question to you, is there some way
20 that we can get additional information as a Board so
21 that -- because these answers are very black and white,
22 but as you've suggested, they don't cover the material
23 in a thorough fashion, and their -- or your hands are
24 tied and you can't necessarily enforce.

25 MR. MATHEWS: You had the exact same
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1 information we did. It was just a question and that's
2 all we had.

3 MR. KING: I guess what I'm --

4 MR. MATHEWS: So we gave you a hundred percent
5 of what we had.

6 MR. KING: I understand. But I guess what I'm
7 suggesting is, is there way to seek additional
8 information before it comes to the Board?

9 MR. MATHEWS: Well, yeah, we could do the
10 research on the Internet for you. I mean, that's -- I
11 mean, that's --

12 MR. O'RELL: The person asking the question
13 should -- we should be able to go back to the person
14 asking the question and get specific information to be
15 able to respond to this question.

16 MR. MATHEWS: Yeah.

17 MR. O'RELL: Andrea and then Julie.

18 MS. CAROE: To just put this in perspective, I
19 mean, we're all looking at albumen. Albumen comes from
20 eggs. We know it's agricultural. They think that -- I
21 mean, redo the question and say an inquirer asked, can I
22 use canola oil? Well, we know that canola oil can be
23 organic, and a certifier will verify that the techniques
24 to create that canola oil were appropriate. But we also
25 know that canola oil can have the same extraction and it

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1 can be inappropriate, right? Not allowed for organic
2 use. In this case, we know albumen comes from an
3 agricultural root. We don't know how it gets there. We
4 don't know anything about the technique. We do know
5 that if they went through the certification process,
6 that that process is consistent with organic, and by
7 definition it would be allowed. We cannot make a
8 blanket statement that says that this product, because
9 it came from agricultural roots, is appropriate. There
10 may be techniques that are inappropriate as well as ones
11 that would take it to an organic end. The statement we
12 made is that if they did go through a certifier and
13 became certified, for sure, by definition it would be
14 accepted. That said, canola oil that's non-organic and
15 used, a certifier can make the determination that it was
16 an appropriate non-organic ingredient, agricultural,
17 based on receiving more information. Again, we don't
18 have that information. Just like a certifier would ask
19 for more information on the topic, so are we before we
20 say yes or no. Does that make sense?

21 MR. MATHEWS: Okay. Then what you really --
22 let me see if I understand this. What you would really
23 like me to do is to go back to the questioner and say,
24 you need to talk to your certifying agent and make a
25 determination of whether this is a synthetic or a

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1 natural. And if it's synthetic, it has to be on the
2 National List. If it's natural, you can continue to use
3 it.

4 CHAIRPERSON RIDDLE: No.

5 MR. O'RELL: No, because --

6 MR. MATHEWS: Okay. Well, I'm just trying to
7 get clarified as to how I answer this question and how I
8 enforce it and what I tell --

9 MR. O'RELL: Kim.

10 MR. MATHEWS: -- certifying agents.

11 MR. O'RELL: Okay.

12 MS. DIETZ: I can't make the motion, but I can
13 give advice, I guess. What it sounds to me like is that
14 the committee needs to take this back and ask for more
15 information from the person who asked the question so
16 that the answer isn't detrimental to the industry. So I
17 suggest you just table this and tack it back and then
18 have the committee request more information. And if
19 this is the process that this committee has to go
20 through after every Q and A, I would seriously look at
21 what you're doing. So but in this case, since it is
22 going to affect a lot of potential products, you should
23 probably table it and seek more -- seek more
24 information, or tell the person who asked the Q and A to
25 go to their certifying agent and they, too, can still

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34 North George St., York, PA 17401 - (717) 854-0077

1 look at that same information.

2 CHAIRPERSON RIDDLE: Yeah. And the Board has
3 voted, so actually tabling is not germane, but we can
4 continue the discussion with NOP on the implications of
5 this. But my understanding right now is that if the
6 albumen was organic, certified by an accredited
7 certifier, it can be used in any product category. If
8 it's agricultural and the certifier determines that it
9 clearly could be used in the "made with" category in
10 that 30 percent, it's status otherwise would need
11 further petition and further review. But those two
12 things I think are solid answers that could be given,
13 and otherwise, more information is needed.

14 MR. MATHEWS: Yeah, okay. We can give that
15 answer, but that's almost like a non-answer. I mean,
16 from the standpoint -- and I'm perfectly willing to do
17 that. We would say, you know, if it is organic, you're
18 good to go. If it's agricultural, you're good to go.
19 If it's synthetic, it has to be on the National List.

20 MS. WEISMAN: If it's agricultural, you're
21 good to go if you're certifier has made you do your due
22 diligence and has reviewed that it's not -- extracted,
23 it doesn't contain GMOs, et cetera.

24 CHAIRPERSON RIDDLE: Yeah. All right. But it
25 meets the other criteria, yeah.

1 MR. MATHEWS: Okay.

2 CHAIRPERSON RIDDLE: Uh-huh. Thanks, Kevin.

3 MR. O'RELL: Next. And we're probably going
4 to have more of these, because it's unfortunately in
5 this process and it's something that I think that we
6 need to review as a Board. I'll just make a comment
7 that the process that we're going through with this
8 collaboration effort is leading to a situation like
9 this, where we're coming here and taking time up,
10 valuable time during a board, on discussion of something
11 that, to me, I think could be answered relatively --
12 well, more quickly and more easily than what we've gone
13 through here in the last 30 minutes. So it's something
14 to consider going forward.

15 CHAIRPERSON RIDDLE: Rose, I guess.

16 MS. KOENIG: Well, I just want to -- I think
17 that the process may be difficult for a committee. It's
18 something that we're not used to and it may be the
19 format or the structure upon which we need more
20 information to answer these things. But a number of our
21 issues with NOP in the past has been interpretation of
22 materials and such, that we were not satisfied with
23 their interpretation. So if that's -- if we feel
24 strongly about that, and I think we do, materials is our
25 area, and not just putting things on a list, but making

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1 sure that there is a consistency with what we believe
2 and what they are stating to the certifiers, I think it
3 is Board work.

4 MR. O'RELL: Just one comment on that. Rose,
5 I agree, but I think that maybe there is a better way to
6 approach this in terms of the NOP looking at the
7 specific issues, and with the guidance of the OTC
8 answering these responses and running by the Board for
9 -- for our input prior to going public with the answer.
10 And I think, at least at that point, we don't run into
11 these type of issues here today, where we're getting
12 into these technicalities, where if we came from an
13 answer that the NOP said, this is how I would answer
14 this question, and then it would come to the Board for
15 confirmation and input.

16 CHAIRPERSON RIDDLE: Yeah. And I would just
17 like to comment. We don't have the collaboration
18 framework back yet, and I think once we do, it does
19 separate out different levels of concerns and issues.
20 And I think that there should be a mechanism where NOP
21 can present a question like this to the relevant
22 committee, the relevant committee presents a proposed
23 answer to the Executive, we meet monthly, and then if
24 the Executive can just approve it, we provide our input
25 in a timely manner. If the Executive says, no, this

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1 needs full-Board consideration, then we'd hold it over,
2 depending on the significance of the issue. So I agree,
3 there needs to be streamline, but it all relates to that
4 framework for collaborative, right?

5 MR. MATHEWS: Just one quick comment on that,
6 Jim. The Board can take no action in the absence of a
7 full-Board meeting before the public.

8 CHAIRPERSON RIDDLE: The Executive -- do you
9 mean --

10 MR. MATHEWS: No one. This Board can have no
11 action absent a public meeting, no final action from the
12 Board absent a public meeting.

13 CHAIRPERSON RIDDLE: Well, okay. Well, we
14 need to know what the limits of action -- when inaction
15 becomes action, because the Executive does act on
16 certain things and those are, you know, required in the
17 minutes. So we just need to --

18 MR. MATHEWS: But the Executive Committee
19 meetings are not public meetings. All formal actions of
20 this Board have to be at a public meeting.

21 CHAIRPERSON RIDDLE: Well, when we get the
22 framework, I think we'll see what can be addressed
23 between meetings that aren't really actions versus
24 actions that have to come up at a Board meeting, because
25 we need to be able to provide ongoing input as well that

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1 aren't actions. Okay, Kevin, are we ready to resume?

2 MR. O'RELL: Yes, I'm ready to resume. We're
3 going to move forward and Julie is going to present the
4 next Q and A, which was regarding tea calculation.

5 MS. WEISMAN: Yeah. A Q and A came in from a
6 manufacturer of an organic tea beverage who wanted
7 clarification on how to calculate the percentage of
8 organic ingredients for her tea product, which is made
9 in the following way. The tea leaves are brewed in
10 water and then the leaves are removed. And then added
11 to the brew are organic sugar, a natural flavor, citric
12 acid, and that is the -- those are the ingredients in
13 the final product. This is -- some background is that,
14 in the situation where there's a product that has a
15 standard of identity, a multi-ingredient product, the
16 NOP will not override that standard of identity that's
17 been set out by some other federal agency. But that is
18 not the case in this product. It does not currently
19 have a standard of identity, therefore the committee
20 referred to Section 205.302. Is it okay -- excuse me.
21 Is it okay to -- just to the decision now, after giving
22 the background?

23 MR. O'RELL: Certainly.

24 MS. WEISMAN: Okay. We support -- well, I'll
25 read the rule. The rule states that the percentage of

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1 all organically produced ingredients in an agricultural
2 product sold, labeled, or presented as 100 percent
3 organic, or "made with" organic, or that include organic
4 ingredients, must be calculated by dividing the total
5 net weight, excluding water and salt, of the combined
6 organic ingredients at formulation by the total weight,
7 excluding water and salt, of the finished product. So
8 therefore we feel that the -- that this manufacturer
9 needs to go to the dry weight of the tea leaves at
10 formulation in calculating the product. Now there was a
11 minority opinion, and I don't -- I'm not sure at this
12 point who wrote the minority opinion, so I actually --
13 if someone could let me know.

14 UNIDENTIFIED SPEAKER: Mark's raising his
15 hand.

16 MR. O'RELL: Mark?

17 MR. KING: Yeah, I wrote it.

18 MS. WEISMAN: It was you.

19 MR. O'RELL: You wrote it.

20 MS. : Okay.

21 MR. KING: It's not my opinion, but I wrote
22 it.

23 MS. WEISMAN: Oh, okay, okay. All right. All
24 right. So --

25 CHAIRPERSON RIDDLE: It's such a minority, no

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34 North George St., York, PA 17401 - (717) 854-0077

1 one knows.

2 MS. WEISMAN: No. Okay, so I would like,
3 then, to point out that there was a minority opinion,
4 that some members felt that an operation could implement
5 testing procedures, such that a percent of tea batches
6 produced could be tested regarding the weight difference
7 between the dry leaves pre-infusion versus the tea
8 leaves dried to a standard moisture post-infusion.
9 These sample tests as percent of the total batches of
10 the tea produced could document and verify the accuracy
11 of the calculation of the percent of organic ingredients
12 per formulation. And a formula was proposed for this,
13 that the manufacturer use the net weight of the flavor
14 infused from the tea leaves in the calculation, which
15 would be determined by establishing the standardized
16 weight of the tea leaves before infusion, which could be
17 referred to as tea one; the tea leaves could be dried on
18 low heat to a standardized moisture content prior to
19 weighing to remove atmospheric moisture; after infusion,
20 the tea leaves are dried to the same moisture content as
21 prior to infusion and then weighed. That would --

22 UNIDENTIFIED SPEAKER: It would be zero.

23 MS. WEISMAN: That would be tea two. Tea one
24 minus tea two equals tea three, the net weight of the
25 tea used as the ingredient in the final product. I

1 include this because it was a minority opinion and I
2 felt obligated --

3 MR. O'RELL: Yes.

4 MS. WEISMAN: -- to report that.

5 MR. O'RELL: Apparently, an anonymous minority
6 opinion. Any discussion?

7 ***

8 [No response]

9 ***

10 MR. O'RELL: No -- we -- did you make -- did
11 you --

12 MS. CAUGHLAN: Is there a motion?

13 MR. O'RELL: -- put in a motion? We need to
14 enter a motion in terms of the recommendation, which I
15 think --

16 MS. WEISMAN: Oh.

17 MR. O'RELL: -- would be --

18 MS. WEISMAN: Should I include the committee
19 -- what the committee's vote --

20 MS. CAUGHLAN: No.

21 MS. WEISMAN: -- was into the record? Okay.
22 So I make a motion to accept the recommendation of the
23 committee.

24 MS. CAROE: I'll second.

25 CHAIRPERSON RIDDLE: Okay, Julie moves and
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1 Andrea seconds. So discussion? Andrea?

2 MS. CAROE: In looking at 205.302(a)(1),
3 there's a conflict in the rule, and the conflict is they
4 use both the words ingredient and formulation.
5 Ingredient, by definition in the regulation, is any
6 substance used in the preparation of an agricultural
7 product that is still present in the final product as
8 consumed. But formulation is not as consumed. So
9 that's -- you know, I think -- I can understand the
10 minority opinion on this one. I don't agree that that
11 is to the intent of what we're trying to do, but the
12 rule has conflict, and I would suggest that at some
13 point we may want to resolve that conflict with some
14 language change to the rule.

15 CHAIRPERSON RIDDLE: Yeah. And this actually
16 was suggested and voted on by the Board as a technical
17 correction to the rule back in -- after the rule came
18 out, because what the rule says is you establish this
19 percent organic ingredients by dividing the total of
20 ingredients, minus water and salt, by the total weight
21 or volume of the finished product. And as you know,
22 there's processing loss, there's conversion factors.
23 You would end up with products which contain more than
24 100 percent organic ingredients following that
25 calculation. And one thing Julie didn't mention is the

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1 audit. A compliance checklist has actually corrected
2 this in the instructions they give to auditors when they
3 look at how certifiers are calculating it, and that's
4 inserted here. And there they say, for solids you
5 divide the total net weight of the combined organic
6 ingredients at formulation by the total weight of all
7 ingredients, not the total weight of the finished
8 product. And then they follow that same logic for
9 liquids. You divide the ingredients by the -- the
10 organic ingredients by the total ingredients, and then
11 the same for combined products. So that -- that really
12 is the way to come up with a correct calculation of
13 percent organic ingredients, is comparing ingredients to
14 ingredients, not comparing them to finished products.
15 So we do have a contradiction with what the rule says
16 versus what the auditors are looking at, and many
17 certifiers are following the calculations as instructed
18 by the auditors.

19 MR. O'RELL: Andrea?

20 MS. CAROE: Again, Jim, my concern is the
21 definition of ingredients, which says that is the
22 product as it exists in the final product consumed. So
23 the ingredients, by definition, is what's the end
24 product, not what's used in the formulation. So I
25 believe that that technical -- or that correction needs

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34 North George St., York, PA 17401 - (717) 854-0077

1 to be made to the rule. Ingredients needs to be
2 designated as what's used in the formulation, not what's
3 existing in the final product.

4 MR. O'RELL: Mike.

5 MR. LACY: I don't understand this question.
6 What would keep somebody from -- you know, let's say you
7 could brew tea -- brew an ounce of tea for 10 minutes
8 and get a product, or brew 10 ounces of tea for 10
9 seconds and get the same product. What would keep
10 people from -- from manipulating their formulation in
11 order to meet a requirement? Does that make sense?

12 MR. O'RELL: Only the fact that they have to
13 deliver a product that the consumer is going to -- going
14 to want. The mike's not on? Only based -- I think --

15 MR. SIEMON: It was on before.

16 MR. O'RELL: Yeah.

17 CHAIRPERSON RIDDLE: You just weren't close
18 enough.

19 MR. O'RELL: Only based on what the consumer
20 reception could be for that product. But if you want to
21 manipulate the regulations, I guess we can all work
22 within the regulations when you're developing or
23 formulating products.

24 CHAIRPERSON RIDDLE: So long as it meets 95
25 percent organic content to be labeled organic,

1 essentially. Bea?

2 MS. JAMES: How is this formula determining --
3 determining that? Because you're diluting it in -- the
4 final product is diluted in water, correct? Right?

5 CHAIRPERSON RIDDLE: That's outside the
6 calculation.

7 MS. JAMES: Okay. So the question seems like
8 they're asking how to calculate, but it's not asking how
9 to make sure that there's the correct ratio, right, that
10 there is a standard ratio, because you could have more
11 or you could have less if a manufacturer wanted to,
12 according to this ratio that you have in here in this
13 formula. If a manufacturer wanted to make something
14 that was less diluted, there's nothing in this ratio or
15 in this calculation formula that's telling them that
16 they can't do that, right?

17 CHAIRPERSON RIDDLE: Right.

18 MR. O'RELL: But --

19 MS. JAMES: So maybe somebody could explain
20 that, because I'm confused by the question, too, a
21 little bit. I'm confused -- is the question asking,
22 does there need to be a standard formulation so that a
23 final tea product actually has a certain amount of
24 organic dry tea, or is it just asking how to calculate
25 that?

1 MR. O'RELL: It's just asking how to calculate
2 that by the rule that we have today. Arthur?

3 MR. NEAL: This question came from Japanese,
4 and the issue is that if they're using a natural
5 ingredient and they have, let's say, organic sugar, a
6 natural flavor, and they've got tea -- tea leaves, if
7 you looked at the way that the regulations are written
8 and it says that, excluding water and salt, if you
9 actually take what's in the final product, you don't
10 have tea leaves in the final product, you've got the tea
11 flavor. And what happens, by not taking the weight of
12 the tea leaves, their product is at jeopardy of not
13 being able to be labeled as organic, because the tea
14 leaves weigh a lot more than flavor -- tea flavor. So
15 they want to know, how do we do it, you know, consistent
16 with what the regulations say?

17 CHAIRPERSON RIDDLE: George?

18 MR. SIEMON: Yeah. I'd like to hear -- I
19 think -- is there -- unless they understand that you
20 certify tea companies, I'd like to hear someone from the
21 field that's doing this, what you think of this. I
22 don't know if there's any other certifiers, but I'd like
23 to hear some input.

24 MS. ZUCK: Leslie Zuck, Pennsylvania Certified
25 Organic.

1 CHAIRPERSON RIDDLE: You need to speak closer.

2 MS. ZUCK: Really?

3 CHAIRPERSON RIDDLE: Yeah.

4 MS. ZUCK: We weigh the -- use the weight of
5 the tea leaves, and the reason we felt -- similar to
6 what Arthur's saying, if you did the calculation of the
7 difference -- if you'd keep -- if you dry out all the
8 moisture, you're going to get zero, pretty much. You
9 know, if you standardized it each time and you try to
10 find the difference to find out what the tea flavor was,
11 you're going to get zero, and that product, even if they
12 used organic tea to brew it, would not be able to be
13 labeled as organic tea, because -- I mean, it's going to
14 be really close to zero. I think it would be negligible
15 once you standardized it down. I mean, that's not the
16 reason we do it. We thought it made sense to weigh the
17 -- do the weight of the tea leaves because it was an
18 ingredient.

19 MR. SIEMON: So from your experience, is this
20 recommendation going to be workable?

21 MS. ZUCK: I believe so. I think the other
22 way around would be extremely burdensome and my clients
23 would say, are you out of your mind?

24 MR. O'RELL: Yes, absolutely.

25 CHAIRPERSON RIDDLE: Well, you'd only need to
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1 do it once to establish how much --

2 MR. O'RELL: No.

3 MS. WEISMAN: No, no, no.

4 CHAIRPERSON RIDDLE: Well --

5 MS. ZUCK: I don't -- no. Well, I don't know,
6 I don't know.

7 MS. CAUGHLAN: No.

8 UNIDENTIFIED SPEAKER: Guess who's the
9 minority?

10 MS. ZUCK: You're an inspector. I mean, you
11 want to try to figure all that out? I don't know.

12 CHAIRPERSON RIDDLE: No, the burden is --

13 MS. ZUCK: Right, I know, I know. But I think
14 it would be a problem of being able to get any tea in it
15 to label it, because the natural flavoring wouldn't have
16 to be organic. So there wouldn't be anything organic
17 except the sugar, so you have to label it organic sugar
18 water, you know?

19 CHAIRPERSON RIDDLE: We have that on the
20 market.

21 MR. O'RELL: Andrea and then Nancy.

22 MS. CAROE: Also something to understand is,
23 if you take that brewed tea and dry it, you're not just
24 losing water, you're losing that volatile flavor
25 component, so you're not even getting a real number.

1 The flavor that's you've infused is leaving with the
2 water. It's got a boiling point less than 212, so they
3 go away. So you're not even getting an accurate number,
4 you're just getting the residues and they're not even
5 the desirable component of the flavor.

6 MR. O'RELL: Arthur?

7 MR. NEAL: The other issue that's in the back
8 of our minds, too -- because what we're seeking, we're
9 seeking to try to be as consistent as possible in these
10 calculations, especially with the type of products that
11 are produced without a standard of identity. Remember
12 when we had the soy issue and we didn't use soybeans as
13 the original ingredient. We said the -- what is it, the
14 concentrate that they --

15 UNIDENTIFIED SPEAKER 1: Isolate.

16 MR. NEAL: Right.

17 UNIDENTIFIED SPEAKER 2: The soy protein
18 isolate.

19 MR. NEAL: The isolate, that's what we allowed
20 for the use. And so I guess we have to be kind of
21 consistent in how we instruct people what you start
22 with. So that's another reason why the question is on
23 the table.

24 MR. O'RELL: Julie.

25 MS. WEISMAN: But I think that this is

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1 consistent with your example, because I would say that
2 the dry tea leaves are equivalent with the soy protein
3 isolate, whereas the green tea leaves, you know, before
4 they're dried would be more -- would be more comparable
5 to soybeans. So I think that -- I think that it is
6 consistent.

7 CHAIRPERSON RIDDLE: I'm understanding now
8 that I am the minority opinion on this.

9 UNIDENTIFIED SPEAKER: But that's your
10 opinion.

11 MR. O'RELL: I wondered when that was going to
12 register.

13 CHAIRPERSON RIDDLE: But I do disagree,
14 because with the -- when you're making soy milk, through
15 most processes you're removing the fiber, and that fiber
16 is not counted in the calculation, it's not the whole
17 bean, it's the amount of the bean actually becomes the
18 ingredient. And scientifically, to be consistent, in
19 the tea you would not count the dry tea and all its
20 fiber, you'd only count the part of the tea that
21 actually goes into the product as the ingredient. I
22 don't care about this one way or another, but to be
23 consistent and to really come up with the honest
24 calculation of what percent of that product is indeed
25 organic, it should be just the amount of the flavor from

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1 those dried tea leaves that entered the product. And
2 there is a way to determine it with low heat, where it
3 wouldn't volatilize. It is scientifically possible.

4 MR. O'RELL: Kim.

5 MS. DIETZ: I think, Jim, then what you're
6 getting into is inconsistencies and how people
7 manufacture and the amount of time they heat it and all
8 that kind of thing. It's kind of a crazy situation,
9 unless you have a standard or unless you can actually
10 measure and unless there's consistency amongst the whole
11 industry, you pretty much have to go with the -- well,
12 you don't have to go with it, but the recommendation
13 before the Board is probably the best that we can do
14 with the information we have and with the -- how to
15 calculate percent organic based on how the rule is read.

16 CHAIRPERSON RIDDLE: Well, yeah. And I just
17 realize that, in my comments on this draft and maybe --
18 and in the committee's draft, it didn't go back to that
19 policy statement which has various categories for
20 calculation, and you know, maybe we should look at that
21 for consistency as well, because this takes it to
22 another step, but it should be consistent with that,
23 which is on the website somewhere.

24 MR. MATHEWS: Your favorite collaborative
25 effort.

1 CHAIRPERSON RIDDLE: Yeah, right. Yeah, that
2 was a good one, but we weren't addressing tea at that
3 time, so this is another mindbender along that line.

4 MR. O'RELL: Jim, are you suggesting
5 additional information in the rationale, or do you
6 disagree with the motion of the answer to the question
7 of the way tea is calculated, which we're saying yes to?

8 CHAIRPERSON RIDDLE: Well, actually both. I
9 mean, I disagree with the answer, and I do think that
10 that other policy statement should've been, you know,
11 taken into consideration or excerpted or something,
12 referenced here. You know, I go along with the will of
13 the Board, though. I mean, it's fun to actually be
14 debating and not just chairing.

15 MR. O'RELL: Andrea, and then I want to pose a
16 question to the NOP.

17 MS. CAROE: I think we need to look at this in
18 the big picture and not into the gnat's ass leather up
19 the goolie. Because -- I mean, ultimately, no tea
20 manufacturer is going to buy a tremendous amount of tea
21 leaves and not infuse them to a quality product. And a
22 quality product doesn't mean that there's going to be
23 fiber in that product. I don't believe that's the
24 intent. The intent of the rule is to ensure that there
25 -- that the final product was produced using organic

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1 ingredients, and I believe that those organic
2 ingredients are there. Because of this processing
3 technique, the weight is removed, but the tea leaves are
4 used, and I think that it would be -- I think it would
5 be doing a disservice to this industry to eliminate --
6 because the citric acid alone is a non-organic
7 ingredient. It's enough to take these guys out of the
8 label claim.

9 MR. O'RELL: And I think that this is
10 consistent with the way the calculations are being done
11 today with other companies for infusing tea. And I
12 would ask the NOP before we get into another bind of
13 preventing -- presenting emotion and voting on it and
14 then have an objection from NOP as to how they can
15 interpret it, if we follow our guidelines here of
16 answering your question of a yes and a no, in accordance
17 with what the motion will be made, is that sufficient
18 for you, Richard, in terms of your needs?

19 MR. MATHEWS: For tea only, yes.

20 MR. O'RELL: That's what we're being asked, is
21 for tea only. Okay, can we -- Julie, I guess we -- did
22 you make a motion or did you just --

23 MS. WEISMAN: I think I did. I'm not ignoring
24 the process, but I think that's what I did.

25 CHAIRPERSON RIDDLE: Yeah.

1 MR. O'RELL: Okay. Well, I just want to
2 clarify that for --

3 CHAIRPERSON RIDDLE: Andrea seconded it.

4 MR. O'RELL: Andrea seconded it. The motion
5 is in answer to the Q and A. To calculate the
6 percentage of organic ingredients, does the manufacturer
7 use the dry weight of the tea leaves as the amount of
8 tea in the final product, and the recommendation is yes.
9 There's a second part to that. Or does the manufacturer
10 use the flavor infused from the tea leaves or some other
11 measurement as the amount of tea in the final product.
12 The answer is no, and we've provided a rationale.
13 That's the motion that is up for voting. So, Jim, do
14 you want to do the roll --

15 CHAIRPERSON RIDDLE: Yeah, yeah, we'll
16 proceed, then. So let's see, we started with Rigo, and
17 so it's Hugh. Hugh?

18 MR. KARREMAN: Yeah.

19 CHAIRPERSON RIDDLE: That was a yes. Julie?

20 MS. WEISMAN: Yes.

21 CHAIRPERSON RIDDLE: Gerald?

22 MR. DAVIS: Yes.

23 CHAIRPERSON RIDDLE: Mike?

24 MR. LACY: Yes.

25 CHAIRPERSON RIDDLE: Nancy?

1 MS. OSTIGUY: Yes.

2 CHAIRPERSON RIDDLE: Dave?

3 MR. CARTER: Yes.

4 CHAIRPERSON RIDDLE: Bea?

5 MS. JAMES: Yes.

6 CHAIRPERSON RIDDLE: George?

7 MR. SIEMON: Yes.

8 CHAIRPERSON RIDDLE: Rose?

9 MS. KOENIG: I'm going to abstain.

10 CHAIRPERSON RIDDLE: Abstained.

11 MS. CAUGHLAN: Yes.

12 CHAIRPERSON RIDDLE: Goldie, yes. Kevin?

13 MR. O'RELL: Yes.

14 CHAIRPERSON RIDDLE: Andrea?

15 MS. CAROE: Yes.

16 CHAIRPERSON RIDDLE: Rigo?

17 MR. DELGADO: Abstain.

18 CHAIRPERSON RIDDLE: And the Chair votes no.

19 MS. CAROE: The first no vote.

20 CHAIRPERSON RIDDLE: The first no vote. Thank
21 you. My privilege. Okay, so that passes with --

22 MS. WEISMAN: There's a second part -- there
23 was --

24 CHAIRPERSON RIDDLE: Okay. But --

25 MS. WEISMAN: -- a second question.

1 CHAIRPERSON RIDDLE: -- can I just give the
2 numbers here? That would be 11 yes, 1 no, and 2
3 abstentions.

4 MR. CARTER: Not only did the Chair no, he got
5 weird.

6 CHAIRPERSON RIDDLE: Or maybe I got the math
7 wrong, too.

8 MS. CAROE: No, you got it.

9 CHAIRPERSON RIDDLE: Is it 12?

10 MS. CAROE: It's 11, 1, 2, 0.

11 CHAIRPERSON RIDDLE: That's only 13. Are we
12 missing --

13 MS. CAROE: Fourteen. Eleven, one, two.

14 CHAIRPERSON RIDDLE: Oh, yeah. Okay. I knew
15 I could get the math wrong if I kept trying. All right,
16 Julie.

17 MS. WEISMAN: Okay, question two under the
18 subject of calculation for tea was, to calculate the
19 percentage of organic ingredients, does the manufacturer
20 include or exclude the amount of water used to formulate
21 the final product? This was kind of a no-brainer, I
22 think. Exclude -- that's according to -- 205.302(a)
23 states very clearly that a handler excludes the added
24 water and salt from the weight and/or food volume of
25 organic ingredients at formulation, and to exclude salt

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1 and water from the total net weight of the finished
2 product when calculating the percentage of organically
3 produced ingredients in the product. So there is
4 consistency in this part. Between formulation and
5 finished product, it's the same.

6 MR. O'RELL: So there's a motion to -- in
7 response?

8 MS. CAROE: There's no motion.

9 MR. O'RELL: Would you make a motion?

10 MS. WEISMAN: Okay. Then I move that for
11 Board vote on the committee's determination that water
12 be excluded in the -- calculating the percentage of
13 organic ingredients to formulate the final product.

14 CHAIRPERSON RIDDLE: Is there a second?

15 MS. CAROE: I'll second.

16 CHAIRPERSON RIDDLE: Okay, moved by Julie,
17 seconded by Andrea. Kevin?

18 MR. O'RELL: Discussion?

19 ***

20 [No response]

21 ***

22 MR. O'RELL: I think we're ready to vote.

23 CHAIRPERSON RIDDLE: Yeah, all right. So we
24 start with Julie.

25 MS. WEISMAN: Yes.

1 CHAIRPERSON RIDDLE: A definitive yes.
2 Gerald?
3 MR. DAVIS: Yes.
4 CHAIRPERSON RIDDLE: Mike?
5 MR. LACY: Yes.
6 CHAIRPERSON RIDDLE: Nancy?
7 MS. OSTIGUY: Yes.
8 CHAIRPERSON RIDDLE: Dave?
9 MR. CARTER: Yes.
10 CHAIRPERSON RIDDLE: Bea?
11 MS. JAMES: Yes.
12 CHAIRPERSON RIDDLE: George?
13 MR. SIEMON: Yes.
14 CHAIRPERSON RIDDLE: Rose?
15 MS. KOENIG: Yes.
16 CHAIRPERSON RIDDLE: Goldie?
17 MS. CAUGHLAN: Yes.
18 CHAIRPERSON RIDDLE: Kevin?
19 MR. O'RELL: Yes.
20 CHAIRPERSON RIDDLE: Andrea?
21 MS. CAROE: Yes.
22 CHAIRPERSON RIDDLE: Rigo?
23 MR. DELGADO: Yes.
24 CHAIRPERSON RIDDLE: Hugh?
25 MR. KARREMAN: Yeah.

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1 CHAIRPERSON RIDDLE: The Chair votes yes.
2 We're back to harmony, 14, 0, 0, 0. Okay. Yes, and I
3 did say we'd take a break, so come back at a quarter
4 until 11:00. So just a little over a 15-minute break.
5 A bonus.

6 ***

7 [Off the Record]

8 [On the Record]

9 * * *

10 CHAIRPERSON RIDDLE: We'll get started again,
11 and it's still the Handling Committee and it's the
12 bitter orange Q and A. So, Kevin?

13 MR. O'RELL: Okay.

14 CHAIRPERSON RIDDLE: I think we -- yeah, it
15 went off there. Okay.

16 MR. O'RELL: Well, let's see if this is a
17 bitter pill or bitter orange. We'll try again at
18 another Q and A. The bitter orange came as a question
19 to the National Organic Program from a manufacturer of a
20 formulated product that was asked whether his product
21 had to be petitioned for inclusion on the National List
22 in order to be used in organic processing. His product
23 comprised of bitter orange, which is a flower and peel
24 water-extracted solvent-free. That's all we know about
25 the bitter orange material. And citric acid, which is

1 listed at 205.605(a), malic acid, 20 -- which is in the
2 in final rulemaking process. I guess it's on the docket
3 that's coming -- that's being held up, is that correct?

4 CHAIRPERSON RIDDLE: Yeah. And the Board
5 recommended it for 605(a) as well.

6 MR. O'RELL: (a), yes. Ascorbic acid, which
7 is 205.605(b), which, at the time of this discussion,
8 was prior to the lawsuit. So that wasn't considered.
9 And again, glycerin, under 205.605(b), and water, which
10 is excluded under 205.302(a). The specific question
11 that was asked is, considering that the product in
12 question is formulated with a number of ingredients,
13 some that are allowed on the National List, others that
14 are not, but all of them are addressed in the
15 regulations, the NOP requests the NOSB to provide input
16 on which of the following substances must be petitioned
17 under NOP regulations. The recommendation from the
18 Handling Committee was that the bitter orange would need
19 to be petitioned. Again, there was a concern that we
20 didn't have enough information. We understand that it
21 comes from an agricultural source. We did have some
22 information in terms of it being solvent-free, but felt
23 -- at that time, the committee felt that they needed
24 additional information to determine exactly what this --
25 how this material was derived, is there an organic

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1 source of material, and the vote was, from the
2 committee, five yes, one absent. So in the form of a
3 motion, in response to the question that was asked from
4 the NOP regarding the bitter orange, the recommendation
5 from the Handling Committee is that this ingredient
6 needs to be petitioned.

7 CHAIRPERSON RIDDLE: Okay. So we have a
8 motion. Is there a second?

9 MS. CAROE: I'll second.

10 CHAIRPERSON RIDDLE: Kevin moves, Andrea
11 seconds. Discussion?

12 MR. O'RELL: Discussion?

13 MR. SIEMON: Yeah. And of course, this sounds
14 a lot like the --

15 MR. O'RELL: Yes.

16 MR. SIEMON: -- albumen. How close does this
17 all relate to ag or nonag -- I mean, agriculture and
18 nonagriculture? Is that part of the heart of this
19 question?

20 MR. O'RELL: Well, it certainly is part of the
21 question in terms of the process that the material goes
22 through. We know that the source is agricultural, we
23 just wanted to make sure of the other inputs into -- the
24 extraction processes are compliant with the regulations.
25 Julie?

1 MS. WEISMAN: Yeah. Mike, this also benefits
2 from a clarification added, just like we did with the
3 albumen, that if the bitter orange is a certified
4 organic bitter orange, then we already know the answer
5 to those questions. That would be all right.

6 MR. O'RELL: I guess I would ask the NOP,
7 before we go through and vote on a motion again, as to
8 how -- are on track to answer your question to --

9 MR. NEAL: The answer is yes, and Julie raises
10 an interesting point, that if that bitter orange would
11 be certified as organic, it would clearly then not have
12 to be petitioned. However -- yeah, it would not have to
13 be petitioned. But if it's not organic, then it would
14 have to be identified on a list.

15 MR. O'RELL: On the list. Bea.

16 MS. JAMES: Do we have enough information to
17 know if bitter orange is --

18 MR. O'RELL: Your microphone.

19 MS. JAMES: Do we have enough information to
20 know whether or not if bitter orange is a potential
21 synthetic or not?

22 MR. O'RELL: It's --

23 MS. JAMES: Do we understand the extraction
24 process and do we -- I mean, have we --

25 MS. WEISMAN: That's why we're asking for a

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1 petition. A petition doesn't necessarily mean that the
2 aim is to get it on the list, it's just to have enough
3 information to even determine whether it needs to be
4 considered --

5 MS. JAMES: So --

6 MS. WEISMAN: -- for the list or not.

7 MS. JAMES: -- really, this is --

8 MR. O'RELL: Again, this comes -- this --

9 MS. JAMES: Like George mentioned, it's like
10 the albumen.

11 MR. O'RELL: In our mind in the Handling
12 Committee, this comes back to the same -- the same thing
13 as the albumen, we don't have enough information about
14 this particular ingredient to make the determination.
15 Is it agricultural? We know it's from an agricultural
16 source, but we don't know the inputs and the method of
17 extraction in the process, and that needs to be
18 determined in order to make a question. So again, we're
19 just taking it back and saying, we need more information
20 to determine where it would be at if it needs to be on
21 the list of allowed synthetic or agricultural product
22 that's not organically available.

23 CHAIRPERSON RIDDLE: Arthur.

24 MR. NEAL: Also, to comment on the extraction
25 method, based on what was provided to the Program, it's

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1 states that it was water-extracted and solvent-free,
2 about the extraction process.

3 MR. O'RELL: I guess one of the things -- I
4 guess one of the things that was questioned as well or
5 brought up for discussion is even if this would qualify
6 under a natural flavor. And we just -- Julie?

7 MS. WEISMAN: It very well may --

8 MR. O'RELL: Yeah.

9 MS. WEISMAN: -- looking at these ingredients,
10 in which case it is already on the list.

11 MR. O'RELL: Yes, exactly. So I mean, that is
12 our concern, that we don't have enough information. If
13 we had the information in terms of -- in terms of the
14 process, the extraction of this product, it could be
15 determined that this is a natural flavor and already
16 allowed on the natural list.

17 CHAIRPERSON RIDDLE: Okay, any further
18 discussion? Right, Rigo.

19 MR. DELGADO: Just for clarification purposes,
20 what's the next step? Assuming we approve this motion,
21 are you going to go out and request a TAP or what --

22 MR. O'RELL: Arthur?

23 MR. NEAL: I guess it's going to depend,
24 because, one, the whole natural flavor issue came up in
25 the conference call and you may to explore before you

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1 make your final decision, because it could impact on
2 what happens with the recommendation. Once we receive
3 your recommendation, what we're probably going to do is
4 try to get back to the inquirer so that we can advise
5 the inquirer what his next step should be. That's
6 what's going to happen with the recommendation.

7 MR. O'RELL: Any further discussion?

8 ***

9 [No response]

10 ***

11 MR. O'RELL: Hearing none --

12 CHAIRPERSON RIDDLE: Hearing none, I'll take
13 his mike away. So we'll move to the vote, and we start
14 Gerald.

15 MR. DAVIS: Abstain.

16 CHAIRPERSON RIDDLE: Gerald abstains. Mike?

17 MR. LACY: Yes.

18 CHAIRPERSON RIDDLE: Yes. Nancy?

19 MS. OSTIGUY: Abstain.

20 CHAIRPERSON RIDDLE: Nancy abstains. Dave?

21 MR. CARTER: Yes.

22 CHAIRPERSON RIDDLE: Bea?

23 MS. JAMES: Abstain.

24 CHAIRPERSON RIDDLE: George?

25 MR. SIEMON: Yes.

1 CHAIRPERSON RIDDLE: Rose?

2 UNIDENTIFIED SPEAKER: She's absent.

3 CHAIRPERSON RIDDLE: Absent, okay. Goldie?

4 MS. CAUGHLAN: Yes.

5 CHAIRPERSON RIDDLE: Kevin?

6 MR. O'RELL: Yes.

7 CHAIRPERSON RIDDLE: Andrea?

8 MS. CAROE: Yes.

9 CHAIRPERSON RIDDLE: Rigo?

10 MR. DELGADO: Yes.

11 CHAIRPERSON RIDDLE: Hugh?

12 MR. KARREMAN: I abstain.

13 CHAIRPERSON RIDDLE: Julie?

14 MS. WEISMAN: Yes.

15 CHAIRPERSON RIDDLE: And the Chair votes yes,
16 so -- so we have nine yes, zero no, four abstentions and
17 one absent. Well, I have Nancy, Bea, Hugh, and Gerald
18 abstaining, and Rose was absent. Okay, so it does pass.

19 MR. O'RELL: Okay. Now we're going to move on
20 to one that's going to be a lot of fun.

21 MR. SIEMON: We were really having fun before.

22 MR. O'RELL: Well, if you thought you were
23 having fun before, George, just wait for this one. This
24 in response to another Q and A that -- this is in
25 response to another Q and A that came from the NOS --

1 from the NOP to the NOSB, and this one involves a very
2 specific scenario that was given to us, to the Board, in
3 terms of a question. That question is, a retail
4 establishment has been voluntarily certified by a USDA
5 accredited certifying agent, certifier X, to sell
6 organic products. The certified retail establishment
7 contracts with a certified organic handling operation,
8 certified by Y, to manufacture organic products for
9 distribution by the retail establishment. The organic
10 products that are produced by the contracted handling
11 operation are also packaged and labeled by the handling
12 operation. However, the labels used to label the
13 product package -- the packaged products are supplied to
14 the contracted handling operation by the certified
15 retail establishment. The certified retail
16 establishment does not perform any processing function
17 -- and that's in the question -- that it does not
18 perform any processing function for this product during
19 its manufacture. The first question that was asked, and
20 it might be best to take these individually, is based on
21 the scenario presented and the requirements contained in
22 the NOP regulation, which ACA is "required" to be
23 identified on the label of the packaged product.
24 Certifier X or certifier Y, please provide your
25 rationale. Certifier X being the voluntarily certified

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1 retail establishment, or certifier Y being the handler
2 that produced the products in the scenario.

3 And the response for our recommendation, we
4 had indicated certifier Y is required to be on the
5 labeled product. According to Sections 205.303(b)(2)
6 and 205.304(b)(2), the ACA that certified the "handler"
7 that processed and packaged the product must be
8 identified on the ingredient statement. And this
9 example scenario, the certified retail establishment
10 does not perform any processing function for this
11 product during its manufacture. Now, there's nothing in
12 the regulation that would prevent certifier X from also
13 being identified as the certifier of the retail
14 operation. So in response to question number one, based
15 on this scenario, our answer is certifier Y. So we
16 would entertain a motion that -- so it'll be moved that,
17 in response to the NOP question number one, the Handling
18 Committee states certifier Y is required to be listed on
19 the labels.

20 MR. SIEMON: I move that.

21 CHAIRPERSON RIDDLE: Well, Kevin moved the
22 motion. Is there a second?

23 MR. SIEMON: I'll second.

24 CHAIRPERSON RIDDLE: Okay, George seconds.

25 All right, discussion? Andrea.

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1 MS. CAROE: I am the minority on this question
2 and I'll disclose that right from the beginning. My
3 concern is that the question is flawed. The question
4 states that this retailer does not participate in any
5 manufacturing, yet it also states that they are
6 providing the labels and contracting the manufacturing
7 and that's -- that is a contradiction. And so I can't
8 see that this question is being answered correctly in
9 stating that the retail establishment that is
10 contracting this product and providing a label under a
11 labeling recognition -- regulation, is not responsible
12 to be the final handler. So I vehemently disagree with
13 the answer to this question.

14 Also, I would like to, at this time, state
15 that we have received some strong public comment on this
16 and I've also received written comment that will be
17 presented tomorrow during public testimony from the
18 major retailer about this issue. So I would suggest we
19 entertain tabling this.

20 MR. O'RELL: Was that a motion, too?

21 CHAIRPERSON RIDDLE: Well, it's not.

22 MS. CAROE: It's not yet, but I just --

23 CHAIRPERSON RIDDLE: It's a suggestion to
24 entertain. I like those. But Nancy and then Bea.

25 MS. OSTIGUY: I guess that I'm winding up with

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1 Andrea's comment. I'm trying to figure out how the fact
2 that this is a retail establishment is actually
3 important at all, because what they're doing in some
4 ways is what a lot of labels do, you contract with folks
5 to grow whatever you want, you contract with somebody to
6 do the processing, you provide the labels. So you're
7 physically not turning any screws anyplace, or picking
8 up agricultural products, but you're responsible for all
9 the decisions that are made all along. So my reaction
10 is that it should be certifier X, the retail
11 establishment, since they're the one making the
12 decision. I will fully admit, this is not an area I'm
13 an expert in.

14 CHAIRPERSON RIDDLE: Bea.

15 MS. JAMES: The question clearly states that
16 the retail establishment does not perform any processing
17 function and that they're contracting that out and
18 they're not actually manufacturing any product on the
19 facility, then, you know, certifier Y would be the only
20 -- would be the only seal that should be on the product,
21 because a retail establishment does not have the
22 authority for certification. They are contracting --
23 they're contracting that out and they are trusting that
24 the manufacturer that they hired to make their -- to do
25 their product is the one that has the certification and

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1 that is responsible for the seal.

2 MR. O'RELL: Let me respond. I'd like to
3 respond to Bea and just give some additional background
4 from the Handling Committee, and then I'll recognize, I
5 think, Julie and --

6 CHAIRPERSON RIDDLE: Well, George was also in
7 line, too.

8 MR. O'RELL: -- George. Sorry, George.

9 CHAIRPERSON RIDDLE: Yeah.

10 MR. O'RELL: You can go next, George. But a
11 lot of this came down to the question, and I agree with
12 Andrea, the question is misleading the way it is worded.
13 It says the retail establishment does not -- is not
14 involved in the process. When we go back to the
15 definition of a handler, any person engaged in the
16 business handling agricultural products, including
17 producers who handle crops or livestock of their own
18 production, except such terms shall not include final
19 retailers of agricultural products that do not process
20 agricultural products.

21 And then if you go to the processing section
22 and read the definition for processing, which I think we
23 all know, there is the one question mark in there, it's
24 otherwise manufacturing, and that's where the otherwise
25 manufacturing can go back to a retailer who contracts

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1 for processing the product at a manufacturer. But in
2 the specific scenario we were given in the question, it
3 states that this retailer does not process.

4 Just a point of discussion, then we'll go
5 around. But I would not have a problem if somebody made
6 a motion to table this and take it back to the
7 Certification Committee for retooling, because we've had
8 some public comment, we've had some public input. I
9 know we're going to have more tomorrow as well on this
10 issue, and I think that might be a good direction. But,
11 George?

12 MR. SIEMON: Well, of course, this is a very
13 complex issue and -- but certifier Y is the one who can
14 certify for the integrity of that product becoming a
15 finished retail product, correct? They're the one that
16 is responsible for that.

17 CHAIRPERSON RIDDLE: They certified the
18 handler, the contract and handler.

19 MR. SIEMON: So when it's a finished retail
20 product, that certificate's the one who covered that
21 aspect of it?

22 MR. O'RELL: Sure.

23 CHAIRPERSON RIDDLE: Um-hum.

24 MR. SIEMON: And the only other complication
25 throughout it is often the manufacturer -- the co-packer

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1 has a certificate, and the person who sold the labeled
2 product has a different certificate as well as the
3 retailer has a different certificate. So organic -- who
4 sells it to a retailer with a different certificate. So
5 you could actually have three different certificates
6 involved if organic -- didn't control the certificate of
7 the handler. So I don't want to confuse the issue, but
8 I think that's more important, who's in charge of the
9 integrity. It's got to be the one identified, and in
10 this case it's Y. It doesn't matter if there's an M,
11 too, Y is the one that's got to be held accountable. So
12 I think this makes sense to me.

13 MR. O'RELL: Mark and then Julie.

14 CHAIRPERSON RIDDLE: And then Andrea.

15 MR. O'RELL: And then Andrea. I'm sorry.
16 Mark, Julie, Andrea.

17 MR. KING: Yeah, Mark King. I agree that the
18 answer is correct. I also agree that the question is
19 flawed. So if we're going to go back and look at this
20 in some way, or fashion a different answer here, then I
21 would recommend that we also amend the question.
22 Because we're going to end up confusing a whole lot of
23 people out there if we don't look at the phrase, the
24 certified retail establishment does not perform any
25 processing function, without elaborating on what a

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1 processing function is in terms of manufacturing. So I
2 think we need to look at that.

3 MR. O'RELL: I agree. I think that the way we
4 have answered this as a committee is technically
5 correct, however, it is very confusing because of the
6 question that was stated and it's probably going to
7 cause more confusion if we go forward with this today.
8 Julie.

9 MS. WEISMAN: I am going back to the way Bea
10 posed the question before, and I want to say that that
11 retailer has no less of a right to be considered the
12 manufacturer, than a celebrity-brand product who doesn't
13 -- who does the same thing, who buys the ingredients,
14 has them contracted. There are many, many products that
15 are -- you know, that are on the market that are a brand
16 that is -- has its own certification, but the owner of
17 that brand does not actually physically turn any of the
18 screws or anything.

19 MR. O'RELL: Andrea.

20 MS. CAROE: In a lot of cases, what these
21 retailers are doing when they're doing their private
22 labels -- and it needs to be considered -- is they are
23 producing a label and they may have several regional
24 co-packers with different certifications producing the
25 product for them. Now, when they get certified, they

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34 North George St., York, PA 17401 - (717) 854-0077

1 are being certified to verify that the products that
2 they're selling and representing as organic do comply
3 with their label and are compliant. So in other words,
4 they are the final handler. They take it a step above
5 the manufacturing process of that individual can. So
6 this is a very complicated issue. This is more than the
7 question has indicated. I am making a motion right now
8 that we table this. We get further public comment
9 tomorrow. And I would like to make a second motion,
10 that this be redirected to the Certification,
11 Accreditation, and Compliance Committee.

12 MR. O'RELL: Can we take one motion?

13 MS. CAROE: Sure.

14 CHAIRPERSON RIDDLE: Well, it just -- it'd be
15 in one. It'd be --

16 MR. O'RELL: If you want to do one motion with
17 both, that'd be fine.

18 MS. CAROE: I would be fine to do one motion.

19 MR. O'RELL: Yeah, that would be --

20 MS. OSTIGUY: Second.

21 MR. O'RELL: Okay.

22 MS. WEISMAN: Before we do that, could -- I
23 mean --

24 [Simultaneous comments]

25 CHAIRPERSON RIDDLE: Well, we can discuss.

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1 MR. O'RELL: We can discuss, but there's been
2 a motion --

3 CHAIRPERSON RIDDLE: To table.

4 MR. O'RELL: -- to table and take it back for
5 discussion with the NOP to clarify the question --

6 MR. CARTER: The motion shouldn't --

7 MR. O'RELL: -- and direct --

8 MR. CARTER: -- really be to table, the motion
9 should be just to send it back.

10 UNIDENTIFIED SPEAKER: Send it back.

11 MR. O'RELL: Yeah.

12 MR. CARTER: Because --

13 UNIDENTIFIED SPEAKER: Because to table, you
14 pull it back off again.

15 MR. CARTER: -- tabling means you take it off
16 and you can't discuss it until it's removed from the
17 table.

18 MR. O'RELL: Thank you. A point of
19 information.

20 CHAIRPERSON RIDDLE: Okay, so -- so I'll step
21 back in as Chair now. So we have a motion to redirect
22 back to committee, and also to engage the Accreditation
23 Committee, correct, you wanted both of those to part --

24 MS. CAROE: That's correct.

25 CHAIRPERSON RIDDLE: Yeah. Okay. And, Nancy,
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1 did you second that? So Andrea moved, Nancy seconded.
2 Okay, discussion on that? Okay. Arthur, you have a
3 comment?

4 MR. NEAL: The comment was that the question
5 is flawed. I don't believe that the question is flawed,
6 I think that there's an interpretation of a definition
7 that has been extended beyond, and that's the use of the
8 term otherwise manufacture. And if you look up the term
9 manufacture, it normally implies a physical involvement
10 in the production of something. Now, I think that's
11 another element to the question. The question itself I
12 think is proper. Now, if you want to look at the
13 question differently, that's another issue, that, you
14 know, if you want to expand the definition or define
15 otherwise manufacture to include contracting, as
16 contracting means processing, because that's what we're
17 stating. Because the question says, but does not
18 process. So if you want to say contracting is
19 processing, that's a totally different issue.

20 CHAIRPERSON RIDDLE: Yeah. And the motion now
21 is to redirect back to committee and to engage the
22 Accreditation Committee in that discussion.

23 MS. CAROE: Can I respond to that?

24 CHAIRPERSON RIDDLE: Well, it's not -- it's a
25 additional information that's not really germane to the

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1 motion. That would happen once it's been redirected as
2 you continue development of the answer. So anything
3 about whether it should be redirected back to committee
4 or not? That's the motion on the floor.

5 MS. JAMES: Yes.

6 CHAIRPERSON RIDDLE: Okay, Bea.

7 MS. JAMES: I just --

8 CHAIRPERSON RIDDLE: Microphone.

9 MS. JAMES: I just want to make sure that when
10 we do redirect it back to -- for review, that we -- that
11 we are very clear that we actually answer the question
12 as it is stated, and the question is very clear that the
13 retailer is not a processor. That is the question that
14 needs to be answered. And then I think, in addition to
15 that, we need to look at some of the other points that
16 were brought up about potential scenarios where the
17 retailer could potentially be more involved than what
18 this question is posing.

19 CHAIRPERSON RIDDLE: Um-hum. And the second
20 question gets more at that, I would say, that we haven't
21 even considered yet. Okay, Andrea would like to
22 respond.

23 MS. CAROE: Well, I don't accept that, and I
24 don't accept that because, in the scenario, the -- the
25 retailer is physically creating a label. They are

1 physically putting language on a label. So if we want
2 to go back to manufacture is a physical thing, somebody
3 in that organization is providing the content of that
4 label.

5 CHAIRPERSON RIDDLE: Arthur?

6 MR. NEAL: And I clearly understand that. But
7 even if I look at the definition of process, labeling is
8 not included. It says physically packing or enclosing
9 in a box.

10 MR. O'RELL: Yeah.

11 CHAIRPERSON RIDDLE: Kevin --

12 MS. CAROE: Get manufacturing.

13 CHAIRPERSON RIDDLE: And I think we're all in
14 agreement that, in the question, what's happening is
15 we're stating that the processor does not manufacture.
16 But in looking behind the question, I think -- and what
17 Andrea is looking at is that they provide a label and
18 that's part of it. Even though labeling is not part of
19 the definition for processing, we have this otherwise
20 manufacturing in there that needs to be defined. So I
21 think when we go back to the question, that that's --
22 the root of it is going to be an explanation about an
23 answer to the question and then an explanation about
24 otherwise manufacture. So we got Bea and then George.

25 MS. JAMES: I think there's -- I think there

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 34 North George St., York, PA 17401 - (717) 854-0077

1 needs to be more information about how a retailer
2 creates their label, and I think that's one of the
3 things that we need to get more information on, because
4 the scenario that I'm understanding and that I'm
5 accustomed to is that a retailer does the artwork for a
6 label, submits that to the manufacturer, the
7 manufacturer creates the ingredient standards and
8 information, nutritional information that is on that
9 label. So perhaps -- perhaps before, you know, we get
10 into a discussion about -- about whether the retailer is
11 actually creating a label with the ingredients, maybe we
12 need to do a little bit more research on that and figure
13 out some scenarios that are going on.

14 CHAIRPERSON RIDDLE: Okay. And I said George
15 next, and I know Andrea wants to respond.

16 MR. SIEMON: Yeah, I just didn't understand,
17 so -- and I hate to bring up another scenario, but if
18 the retailer is not certifier -- certified, but by law
19 you're allowed to -- if they're going to have a private
20 label, they would have to become a certified identify.
21 Because they're putting the label on it.

22 MR. NEAL: They would have to be certified.
23 They would be required for certification.

24 MR. SIEMON: No. If they're buying from a
25 manufacturer that is certified, has a certified plant --

1 I'll sell you a private label. All you do is provide
2 the label. Why would the retailer have to be certified?
3 I heard you say, because he provides the label, they
4 have to be certified? All that's certified all the way
5 through is identified on there. Why would the retailer
6 have to be certified at that level?

7 CHAIRPERSON RIDDLE: Andrea?

8 MR. SIEMON: No, I'm following your logic --

9 MS. CAROE: No, I understand what you're
10 saying, and in some cases, George, you're absolutely
11 right. In some cases -- I mean, let me go back to Bea's
12 question. There isn't one path to this. The retailers
13 are across the board. Some retailers are simply
14 providing a specification that a contractor is creating
15 a product and selling them that meet that specification.
16 That's different than a retailer that's out there
17 creating a formula, even sourcing ingredients in a lot
18 of cases. There are -- you know, there's -- it's across
19 the board. I mean, it's not one path. You're not going
20 to be able to get that answer as one situation, it's not
21 happening.

22 Now, George, to answer what you just said, in
23 some cases -- in most cases -- in most cases, those
24 private labels do -- in the creation of those products,
25 do constitute manufacturing.

1 CHAIRPERSON RIDDLE: Arthur has --

2 MR. SIEMON: Say that again?

3 MS. CAROE: There are private labels in which
4 a retailer or other entity -- it doesn't even have to be
5 retailer, somebody that's creating a product and
6 contracting out the physical labor to create that
7 product, they may be considered to be handler because,
8 in the overall scheme of things, they are manufacturing
9 a product. They are marketing it and manufacturing a
10 product.

11 MR. SIEMON: Even though the handler -- the
12 manufacturer is certified, they're the ones responsible
13 to buy certified products, they're the ones responsible
14 for the certified processes, they're the ones with the
15 right application label, the one who orders the product
16 and helps do all the arranging, you're saying should be
17 the master certifier. I think the one accountable for
18 the job is the one that should be the one that's held
19 accountable, and that's the manufacturer.

20 MS. CAROE: Yeah, that's -- we'll disagree.

21 MR. NEAL: Just to kind of keep it back in
22 context --

23 CHAIRPERSON RIDDLE: Arthur.

24 MR. NEAL: -- to keep it in context, the
25 question said, who's required to be on the label? Now,

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1 if we say that if I contract, that's processing, then
2 we're saying that retailers are required to be certified
3 and their certifying agent must be listed on the label.
4 The question -- I mean, yes, they may be listed, their
5 certifying agent. They may be certified and their
6 certifying agent may be listed on the label, but the
7 question says, who's required? Under the regulations,
8 who's required? I just want to keep this in context
9 here.

10 CHAIRPERSON RIDDLE: Kevin?

11 MR. O'RELL: I think that our discussion is
12 getting off of the track from what the motion is on the
13 floor. We have a motion on the floor now to take this
14 back to committee for further discussion, and I would
15 call the question.

16 CHAIRPERSON RIDDLE: All right. And I think
17 that's a good reminder, and we'll proceed to vote on the
18 motion to send it back to committee and to engage the
19 Accreditation Committee in the development of the answer
20 along with the Handling Committee. So that's what we're
21 voting on, to send it back to committee, and the first
22 up is Mike.

23 MR. LACY: Yes.

24 CHAIRPERSON RIDDLE: Mike votes yes. Nancy?

25 MS. OSTIGUY: Yes.

1 CHAIRPERSON RIDDLE: Yes. Dave?

2 MR. CARTER: Yes.

3 CHAIRPERSON RIDDLE: Bea?

4 MS. JAMES: Yes.

5 CHAIRPERSON RIDDLE: George?

6 MR. SIEMON: No.

7 CHAIRPERSON RIDDLE: Rose?

8 MS. KOENIG: Yes.

9 CHAIRPERSON RIDDLE: Goldie?

10 MS. CAUGHLAN: Yes.

11 CHAIRPERSON RIDDLE: Kevin?

12 MR. O'RELL: Yes.

13 CHAIRPERSON RIDDLE: Kevin votes yes, for the
14 record. Andrea?

15 MS. CAROE: Yes.

16 CHAIRPERSON RIDDLE: Rigo?

17 MR. DELGADO: Yes.

18 CHAIRPERSON RIDDLE: Hugh?

19 MR. KARREMAN: Yes.

20 CHAIRPERSON RIDDLE: Julie?

21 MS. WEISMAN: Yes.

22 CHAIRPERSON RIDDLE: Gerald?

23 MR. DAVIS: Yes.

24 CHAIRPERSON RIDDLE: And the Chair votes yes,
25 so we have 13 yes, 1 no, and that's it.

1 MR. SIEMON: Just one no.

2 CHAIRPERSON RIDDLE: I only heard one.

3 UNIDENTIFIED SPEAKER: I said there was only
4 one vote.

5 CHAIRPERSON RIDDLE: Yeah. Okay, so that will
6 be sent back to the committee for Handling Committee to
7 work with Accreditation Committee. And the next
8 question, Kevin? That was just question one. That's
9 the way it was presented. Would you like to just --

10 MR. O'RELL: Unfortunately, yes, now that
11 you've called that to my attention. Questions two and
12 three, I would move that we also follow the
13 recommendation to take this back to committee.

14 MS. OSTIGUY: Second.

15 CHAIRPERSON RIDDLE: Okay. So Kevin moves and
16 Nancy seconds to send questions two and three back to
17 the committee and also to engage the Accreditation
18 Committee in the development of the answers. Any
19 discussion on that motion?

20 ***

21 [No response]

22 ***

23 CHAIRPERSON RIDDLE: Seeing none, we will
24 start with Nancy.

25 MS. OSTIGUY: Yes.

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1 CHAIRPERSON RIDDLE: Dave?
2 MR. CARTER: Yes.
3 CHAIRPERSON RIDDLE: Bea?
4 MS. JAMES: Yes.
5 CHAIRPERSON RIDDLE: George?
6 MR. SIEMON: Yes.
7 CHAIRPERSON RIDDLE: Rose?
8 MS. KOENIG: Yes.
9 CHAIRPERSON RIDDLE: Goldie?
10 MS. CAUGHLAN: Yes.
11 CHAIRPERSON RIDDLE: Kevin?
12 MR. O'RELL: Yes.
13 CHAIRPERSON RIDDLE: Andrea?
14 MS. CAROE: Yes.
15 CHAIRPERSON RIDDLE: Rigo?
16 MR. DELGADO: Yes.
17 CHAIRPERSON RIDDLE: Hugh?
18 MR. KARREMAN: Yes.
19 CHAIRPERSON RIDDLE: Julie?
20 MS. WEISMAN: Yes.
21 CHAIRPERSON RIDDLE: Gerald?
22 MR. DAVIS: Yes.
23 CHAIRPERSON RIDDLE: Mike?
24 MR. LACY: Yes.
25 CHAIRPERSON RIDDLE: The Chair votes yes.

1 Back to harmony, 14 yes.

2 MR. O'RELL: And with harmony, that would
3 conclude the Handling Committee report and action items.

4 CHAIRPERSON RIDDLE: Okay, we're actually --
5 we have the appearance of being ahead of schedule, and
6 we have the Livestock Committee with the change to
7 pasture, but we said that would be after lunch. And
8 Handling -- I mean --

9 MR. SIEMON: And I hope this lights up.

10 CHAIRPERSON RIDDLE: If you could turn on your
11 mike to an announcement.

12 MR. SIEMON: I would request the Livestock
13 Committee have lunch together again, because we've got
14 yet some more changes, so it'll be another fine meal.

15 CHAIRPERSON RIDDLE: Okay. All right,
16 Livestock Committee to eat lunch together. Rose, are
17 you prepared to start the Materials Committee here
18 before lunch?

19 MS. KOENIG: Why don't I do the --

20 CHAIRPERSON RIDDLE: The mike.

21 MS. KOENIG: Okay. Well, Arthur and I have
22 had to work on downloading. I have -- I'd like to use
23 this time to maybe -- not really particularly on the --
24 we went over it last time.

25 CHAIRPERSON RIDDLE: Uh-huh.

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34 North George St., York, PA 17401 - (717) 854-0077

1 MS. KOENIG: So I didn't know whether I would
2 go through this or not, but after speaking at dinner
3 with several of the new Board members, I would like this
4 opportunity to maybe just talk about the whole materials
5 process for them, maybe with the aid of a little bit of
6 slides, but also for the other Board members to help or
7 even to ask questions, because, as you know, a lot of
8 your responsibility on the Board is to make decisions
9 about materials.

10 CHAIRPERSON RIDDLE: Okay. So --

11 MS. KOENIG: So maybe we can start with just a
12 little bit of a slide show.

13 CHAIRPERSON RIDDLE: Go ahead.

14 MS. KOENIG: Some of it will be -- it's going
15 to be reinforced in some of the documents.

16 MR. NEAL: Do I have it?

17 MS. KOENIG: No, I have it -- documents that
18 are on the -- on the -- in the next section of the
19 materials.

20 CHAIRPERSON RIDDLE: Okay.

21 MS. KOENIG: I'll give it to Arthur first.

22 CHAIRPERSON RIDDLE: Okay. So as I understand
23 it, you -- well, let's take just five minutes to get you
24 set back up and then you'll have a half hour for
25 presentation.

1 MS. KOENIG: Yeah. I mean --

2 CHAIRPERSON RIDDLE: But it won't be anything
3 to vote on now before lunch, it's just --

4 MS. KOENIG: No, it's going to be an -- just
5 an overview kind of thing.

6 CHAIRPERSON RIDDLE: Yeah, the materials
7 review process and the status report. So we'll do that.

8 MR. O'RELL: Five minutes.

9 CHAIRPERSON RIDDLE: Five minutes while they
10 get set up here.

11 ***

12 [Off the Record]

13 [On the Record]

14 ***

15 MS. KOENIG: And again, if -- it's mostly for
16 new members. The older members are bored to death with
17 this slide show. And also for members in the audience
18 who don't really understand how the process works. It's
19 not that detailed, so if you have any questions, go
20 ahead and ask. And then I'm just going to give you guys
21 a quick overview. Some of this stuff is going to be
22 repeated as discussion items, too, that the Board will
23 vote on. But --

24 CHAIRPERSON RIDDLE: And you make sure and
25 stay close to that mike. It's not very --

1 MS. KOENIG: Okay, all right. So, Arthur, if
2 you can go ahead.

3 MS. CAUGHLAN: You can remove it and walk
4 around the room.

5 MS. KOENIG: Walk around and sing. It's
6 karaoke. Okay, the materials process update. So I'm
7 just going to talk about the more defined procedures for
8 the materials review process. We'll go over a little
9 bit the Sunset review process. We'll talk a little bit
10 about some of the substances that have been petitioned
11 to the NOP, some of which we're reviewing today, and
12 some which are, you know, in the process. And then, you
13 know, we're going to go over during the Crops and time
14 of the meeting, and we've already went over Methionine,
15 the things that are under review for this meeting. Go
16 ahead, Arthur.

17 So for the new members -- and we've talked
18 about this, the Organic Foods Production Act, which you
19 all have a copy of in your meeting book. It provided
20 for a list of approved and prohibited substances, and
21 that's in the regulation or the -- you know, when we
22 start adding to these sections -- I think it's 205.600
23 -- and different ones for livestock and crops and
24 handling, that's where we're adding to in the
25 regulation. And there's also lists of naturals that can

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1 be prohibited. So as you look through those material
2 sheets that the committees have provided, there's
3 different categories as to what things are being
4 petitioned for. But it was the Organic Foods Production
5 Act of 1990 that established the guidelines for
6 substances on the list, and it also outlined the role of
7 you guys, the NOSB, in the process of establishing and
8 amending the National List. So this really is, you
9 know, a statutory requirement of the Board.

10 Next. And I just want to point out that if
11 you -- you know, what you really need to read are those
12 sections of the Organic Foods Production Act and the
13 regulation that talks about materials, and there are
14 evaluation criteria that was set forth in the act for
15 livestock and crops, and those are the criteria that we
16 will go through as we fill our materials sheets, and
17 you're going -- you've seen the sheet for Methionine
18 already, and you'll see them through Crops. And it's
19 really important for you to look at it. These sheets
20 are relatively new in the process. I think we've been
21 using them for about two years now. The Board has found
22 that they're very useful, and the NOP has found that
23 they're very useful in helping us really document how or
24 if different materials that are petitioned meet the
25 criteria.

1 So if you can't justify what you're doing in a
2 committee, there's -- that indicates something. Either
3 you need more information, perhaps from a contractor,
4 because you should be able to fill in all of those
5 areas. Now, it may be controversial, but you still
6 should be able to have remarks. So again, if you're
7 going through the review process and you find out you
8 can't answer a criteria, you're probably lacking
9 information. One way to get the information is perhaps
10 to go back to the contractor, and I'll tell you at what
11 stage you can do that. And if you don't do that at that
12 stage, then you as a committee may have to do some
13 research on your own to try to obtain that information.

14 Okay, next. So substances are petitioned for
15 -- usually for a specific use in the organic farming
16 system. And typically -- well, they are petitioned.
17 They have to have a specific use. Now, sometimes when
18 you -- when we ask the contractors to do a review, they
19 may go over other uses in the system, and there has been
20 instances where the Board has brought in a use --
21 realize that -- even though they petitioned it for this,
22 we feel that maybe we should put it on for -- you know,
23 give it an additional kind of use. In some cases, I
24 think I recollect. But a lot of times what happens is
25 that, because it's petitioned for a specific use, many

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1 things on the list have annotations that limit it to
2 that specific use. And if you go through the list
3 you'll see that things -- an annotation is something
4 that follows the substance on the list. So something
5 might say for a disinfecting irrigation lines, and that
6 needs to be interpreted as that's the only use for that
7 particular substance.

8 And like I said, things -- there are natural
9 substances that can be prohibited, and there's a listing
10 for that. So there's not a large number of them, but
11 that is a possibility that you'll be coming forth and
12 again using that same criteria. And then the key thing
13 -- you guys, the new people, may not know that all
14 materials remain on the list for five years. And again,
15 this within the Organic Foods Production Act. And they
16 must be re-reviewed through a Sunset process. And the
17 interesting thing for you new folks is that you will be
18 engaged, heavily engaged in the reviewing for the Sunset
19 process, because this work has to be done for substances
20 that came on the list in 2002; it has to be completed by
21 2007. And I think what's really important to note, and
22 it was really hard for a lot of the Board members
23 initially, is that the -- you know, most of us work in
24 businesses, we make decisions and they're implemented
25 the next day, for good and for bad. You can fire

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1 somebody, you can hire somebody. One of the
2 difficulties that I had as a new Board member -- and
3 it's so frustrating after so and so years. It takes the
4 federal government a lot longer than you might think
5 before you make an action, and that can actually be --
6 you know, it's gone through the Federal Register process
7 and actually placed on the list. So not only -- until
8 the -- you may vote on it today. It can't be used,
9 usually, in organic production until about 18 months
10 after that. So it's a long process.

11 Next. So what I'm going to do, I'll go
12 through this fast, because -- well, hopefully fast. And
13 it actually will serve as an initial discussion of some
14 of the things that are in -- on the materials document
15 today, and I think it's important to go through, because
16 I won't be able to go into much detail when we have to
17 vote on it. We've had the process upon how we do our
18 business as a materials -- in materials as a Board is
19 constantly evolving, you know, partly because we have to
20 do things like Sunset. That's a new activity of the
21 Board. And partly because, as we go through and
22 experience these petitions, we find out some -- you
23 know, the good and the bad and the ugly, and what works
24 and what doesn't work, and what works for other
25 contractors, and how do we provide sufficient

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1 information so that we can get our job done. So this is
2 kind of the -- what we're proposing that happens, you
3 know, in 2005. Basically, NOP receives a petition --
4 and again, a petition can be written by a manufacturer,
5 it could be written by a farmer that needs the product,
6 and then the petitioner is noticed that they've received
7 it.

8 Next. And then the second phase is really --
9 the National Organic Program reviews for the
10 completeness and the eligibility of that petition. They
11 ask, you know, is it eligible under the Organic Foods
12 Production Act and the regulation? And they have a
13 checklist that they make sure they go through to
14 determine whether there's an OFPA criteria for this
15 particular material and you know, where in the
16 regulation it fits. And the second step, which is
17 really important, is it approved and consistent with
18 other applicable regulatory authorities? Because some
19 pesticides that are used in crops and in livestock may
20 have EPA registrations and we have to make sure that
21 things that are being petitioned for a particular use
22 are actually labeled for that use. Similarly with drugs
23 and the FDA. And then is there confidential business
24 information designated by the petitioner? And if yes,
25 they have to notify the petitioner, acknowledging that

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1 they've received that designation. And we talked a
2 little bit about -- that first day, of how the Board has
3 to deal with those -- that type of information.

4 Next. The petition is posted on the website.
5 And unfortunately, I found out from talking to a number
6 of you folks that, for some reason, not everybody was
7 informed that that's how, now, as new members or as old
8 members, that we are accessing the information about
9 what's coming in the meeting. So it's really important
10 to keep -- you know, keep on that website to see if
11 there's new things we had posted, and then prior to
12 meetings, finding out all the documents that you're
13 going to need to answer in the meeting should be posted
14 on the website. And you can always go to the petition
15 database and that's an important thing to do, just to
16 see where things are and there may be petitions
17 available. Hopefully, if you're in a committee, you're
18 going to know those things because you'll get other
19 copies of that.

20 The Materials chair is -- tells the designated
21 committee chair of the petition, that a petition is
22 there by the National Organic Program, and the
23 committees have 21 days to review the petition that has
24 come in, and you know, after it's gone through NOP
25 review. And you can submit questions to the

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1 National Organic Program. So in other words, if there's
2 things after you've read the petition that, you know,
3 you really want some more details on, that is the time
4 to try to write those questions down to make sure that
5 these contractors that do the technical review are going
6 to provide you with that information. And then the
7 National Organic Program will notify the contractor
8 responsible for the technical review that the petition
9 is complete and eligible for evaluation. And our
10 committee -- our questions, along with that petition,
11 get submitted to the contractor.

12 Next. If that petition, again, in phase two
13 it was found out that it was incomplete, a notification
14 to the petitioner of this determination is given, and
15 then they have the opportunity to provide the
16 information to make it complete. Sometimes it's
17 incomplete and it stays incomplete for whatever reason.
18 So if everything is complete, it goes to, then, phase
19 three, which is a technical evaluation. And contractors
20 evaluate substances based on the statement of work which
21 is in the policy -- Board policy manual. You can take a
22 look at that. And they will also answer questions
23 provided by the committees. So committees, again, it's
24 really important that you look at those petitions and
25 try to frontload the information that you may need in

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1 the evaluation process. And contractors will prepare
2 technical evaluation using a template provided and
3 distribute -- by the NOP, and distribute the draft to
4 the National Organic Program. But basically -- that you
5 will consistent -- hopefully, consistent TAP information
6 coming back that follows those criteria. Now, there are
7 two contractors, and people do have different styles in
8 writing, but they will have the same format. And so --
9 and again, that doesn't ensure that, again, the quality
10 of the work is the same, but certainly the way it comes
11 back to us will be the same.

12 And then phase four, a sufficiency
13 determination. And this is really important and it's
14 very different, I think, than we've done in the past,
15 and it's supposed to be kind of a quality control in
16 this process, because this has been identified as a
17 problem by the National Organic Standards Board. A copy
18 of the draft evaluation report is distributed to the
19 Materials chair -- Materials Committee chairperson and
20 the chair of the designated committee that that petition
21 is from. So if it's a crop petition, it would go the
22 chair of the Crops Committee. And then the draft
23 evaluation report is reviewed by that appropriate
24 committee and the National Organic Program for quality
25 and adherence to the statement of work. And then you

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1 have basically 21 days, each committee. So you'll get a
2 conference call together. The chair will be responsible
3 for that. You're responsible to make sure that -- that
4 you inform them whether you're available or not and then
5 also be on that call. But you'll have 21 days to
6 determine whether that draft is sufficient or not to be
7 able to make a decision. If it's insufficient, that's
8 the time when those things go back to the petitioner.
9 You know, and if you don't do your job within those 20
10 working days, it's assumed that you don't have a problem
11 with the quality of work. So it's really important to
12 do it. Now, if you get to this Board meeting and it's
13 determined that the work isn't sufficient, I think NOP
14 is going to say, well, that's too bad, because the
15 committee was supposed to determine that. Now you
16 figure it out. I assume that's the position that the
17 NOP's going to take. And then phase five is analysis
18 and recommendation. If the draft evaluation is
19 sufficient, then you initiate a review and make a
20 recommendation on the action of that substance.

21 Now, this is an additional part of this and I
22 think, again, as we evolved -- after we met, I guess,
23 with the NOP, Jim and I, and talked about things, and we
24 discussed this a little bit in committee and I think
25 this is something that we're going to see if it works or

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1 it doesn't work. But as -- if you look through the
2 Organic Foods Production Act, the Board still has the
3 ability to -- to convene a technical advisory panel and
4 to provide additional scientific evaluation on the
5 petitioned substance. And we're -- one of the things
6 that we're discussing or trying to figure out is if or
7 how committees could seek, perhaps, additional technical
8 advisory information from scientists to help them in
9 their determination. Because with the new process, the
10 contractors, if you look at the statement of work, they
11 no longer will be providing outside reviewers to
12 evaluate their work. You will get a TAP report solely.
13 So it's a technical report. Now, what we're thinking,
14 we -- Jim and I -- and we talked to the NOP about this,
15 there may be cases where that is sufficient, and there
16 may be cases where there's not enough expertise on the
17 National Organic Standards Board, your particular
18 committee, to really make you comfortable in making that
19 decision. So we want to develop some kind of formal
20 process so that we could utilize some form of a
21 technical advisory panel to provide maybe some
22 additional information or review of that technical
23 findings of the contractor. So again, it's not worked
24 out and this is part of that evolution of the process.
25 The committee must recommend an action of the substance

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1 no later than 30 days before a scheduled meeting, and
2 then the NOP posts that recommendation on the website
3 and requests and receives public comment.

4 Next. Phase six, the substance is added to
5 the agenda item and discussed and voted on by the full
6 Board, and you're seeing phase six now for Methionine
7 and the materials that are in the materials -- in the
8 book, you know, at this meeting today and yesterday.

9 Next. So that really is -- you know, and then
10 we make our vote, and if we vote yea and it goes through
11 that federal process -- and again, it may take 18 months
12 until it's actually listed on our National List and
13 allowed for use by growers. So that kind of completes
14 that process. So do you guys have any questions on
15 that? I think --

16 CHAIRPERSON RIDDLE: Mike had one and then Kim
17 has a point.

18 MS. KOENIG: Okay. Who -- oh, Mike. Okay.

19 MR. LACY: A quick question.

20 MS. CAUGHLAN: Mike, your mike.

21 CHAIRPERSON RIDDLE: Yeah.

22 MR. LACY: Just a quick question. You may
23 have said this, Rose, already and I apologize, but where
24 is this located? Is this located for new members to --

25 MS. KOENIG: It's the document -- it should be

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1 in our meeting book.

2 MR. LACY: Is it in the meeting book?

3 MR. NEAL: Yeah, it is --

4 MS. KOENIG: Yeah, it's --

5 MR. NEAL: It should say petition process, I
6 think. Let me see here.

7 MR. LACY: Okay, thanks.

8 CHAIRPERSON RIDDLE: And ultimately, it really
9 should be in the Board policy manual.

10 MS. KOENIG: Yeah, we are --

11 CHAIRPERSON RIDDLE: But --

12 UNIDENTIFIED SPEAKER: Materials review.

13 MR. NEAL: Materials review?

14 MS. KOENIG: Yeah, it's -- it's actually the
15 NOP's document.

16 MR. NEAL: Tab eight.

17 MS. KOENIG: Tab eight, yeah.

18 MR. LACY: Yeah, thank you, Arthur.

19 MS. KOENIG: So we'll be discussing. I just
20 wanted to -- like I said, knowing that some folks
21 weren't able to access that information, they didn't
22 know that they were supposed to get that information
23 from the materials -- from the website, for new members
24 just to kind of go over that in more detail. Kim?

25 MS. DIETZ: Just a form of process. This

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1 document has -- the Materials Committee hasn't seen this
2 document yet. So we never reviewed it in the last --
3 we've never voted on this or looked at it. So --

4 MS. KOENIG: That was actually -- it was a
5 draft that was sent around by NOP that they asked for
6 comments on.

7 MS. DIETZ: Okay.

8 MS. KOENIG: And then I took the comments --
9 Jim had made comments and I made comments on it, because
10 it was their draft, so --

11 MS. DIETZ: Okay. Well, just for the process,
12 that it should go back to the Materials Committee and
13 get a recommendation. And then I -- you know, the TAP
14 reviewers, I a hundred percent agree with that, but I
15 think that you need to be -- and again, I've said this a
16 thousand times, you need to make sure you have that
17 process down so that it doesn't seem like you just have
18 a selected pool of people reviewing it. But it should
19 be a Federal Register notice seeking people. And then
20 are you going to pay these people and how you're going
21 to go through that? So before you actually initiate
22 this, somehow we need to figure that part of it.

23 CHAIRPERSON RIDDLE: Right.

24 MS. KOENIG: That document -- you know, part
25 of the reason why the Materials Committee hasn't voted

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1 on it is because it was a -- it was embedded within the
2 statement of work document that went to contractors, and
3 it was also a document that NOP used to train the
4 contractors, and they did send it around prior. So it
5 was sort of a --

6 MS. DIETZ: So it's not a committee document.

7 MS. KOENIG: It's not really a committee
8 document. There was feedback from the committee, but
9 it's basically -- and we made suggestions and that's why
10 it's in the meeting, that members have the ability to
11 make suggestions. Those that did -- now, we can add
12 more suggestions during this meeting and give it back to
13 them and that's why there's a draft there. I took the
14 comments that Jim made and comments that I made, and we
15 can add comments to the meeting book. But this is
16 basically how NOP has taken our original process -- and
17 we've been asking for this. You know, how are we doing
18 business? So this is their response, this is how they
19 see we're doing business. Okay. So that's why I think
20 there's a little state of confusion.

21 And then again, that TAP concept, it's coming
22 out of OFPA. That really is the area where we want to
23 discuss and refine. But we -- you know, for those who
24 have discussed, we feel that it could be a valuable way
25 of seeking out additional information, because we are --

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1 that review process is not in the statement of work and
2 there are no longer outside reviewers coming in with the
3 petitions. Okay. I don't -- I think --

4 CHAIRPERSON RIDDLE: And it is -- it's getting
5 near --

6 MS. KOENIG: Yeah.

7 CHAIRPERSON RIDDLE: Well, it is noon.

8 MS. KOENIG: I don't think I'm going to go on.
9 I think that I'm going to stop there because it is noon,
10 and I just hope that it's helped some of the new members
11 at least clarify a little bit.

12 CHAIRPERSON RIDDLE: Thanks, Rose. Okay, it
13 is lunchtime, and so the Livestock Committee will be
14 meeting and eating. I don't know if any other
15 committees need to meet, but we'll come back to the
16 pasture recommendation right after lunch, and then pick
17 back up with the Materials Committee.

18 MR. SIEMON: Oh, right after lunch.

19 CHAIRPERSON RIDDLE: Well, if you're not ready
20 to move it, just report back after lunch. Okay, great.
21 So we'll start again at 1:00 p.m.

22 ***

23 [Off the Record]

24 [On the Record]

25 ***

1 CHAIRPERSON RIDDLE: -- the Board members to
2 take your seat. We're ready to resume, and we're going
3 to go back to the Livestock Committee and the pasture
4 language. So, Hugh, you've got a few things that were
5 presented yesterday and there's been some updates based
6 on comment. We've had a couple more Livestock Committee
7 meetings, so please update us on where we're at.

8 MR. KARREMAN: Okay. Due to the lots of
9 public input we've had, we have taken a lot of that into
10 consideration, and as Jim just said, we have had two
11 Livestock Committee meetings since just yesterday. And
12 so the first thing that -- well, we brought up yesterday
13 the stage of life, a change to the rule for the term
14 stage of productivity or production. We want to make it
15 stage of life, so I'm not going to go over the
16 background, but -- should I just read the
17 recommendation?

18 MR. SIEMON: Make the recommendation.

19 CHAIRPERSON RIDDLE: Yeah, yeah.

20 MR. KARREMAN: Well --

21 CHAIRPERSON RIDDLE: Yeah, you can --

22 MR. KARREMAN: Do I need to move to make it?

23 CHAIRPERSON RIDDLE: Sure.

24 MR. KARREMAN: I move that we make this
25 recommendation as a full Board.

1 CHAIRPERSON RIDDLE: Okay. And then go ahead
2 and read it and then we'll ask for a second.

3 MR. KARREMAN: Okay, the recommendation. The
4 Livestock Committee recommends a rule change to make the
5 language in 205.239(a)(1) and 205.239(b)(2) consistent
6 with the language in 205.237(a)(2). The language
7 therefore in 205.239(a)(1) would read, access to
8 outdoors, shade, shelter, exercise areas, fresh air, and
9 direct sunlight suitable to the species at stage of
10 life, the climate and the environment. So therefore I
11 move that we change 205.239(b)(2) to be amended to read
12 animal stage of life.

13 MR. CARTER: Second.

14 CHAIRPERSON RIDDLE: Hugh moves -- Hugh moves
15 and Dave seconds. And that would affect two places in
16 the rule, correct, two different sections would be
17 changed. Okay, is there a discussion on this motion?

18 CHAIRPERSON RIDDLE: It was presented in
19 detail yesterday. I want to make sure everyone's clear
20 on what we'll be voting on here.

21 MR. SIEMON: This was a handout --

22 CHAIRPERSON RIDDLE: Okay, George.

23 MR. SIEMON: This was a handout from yesterday
24 and it's not in your book.

25 CHAIRPERSON RIDDLE: Right. A single page.

1 Yeah. And it's on the screen under recommendation as
2 well. If you can't find your sheet and for everyone in
3 the audience, it's up on the screen.

4 ***

5 [No response]

6 ***

7 CHAIRPERSON RIDDLE: Okay, seeing no further
8 discussion, we'll move to vote, and we start at the top
9 again with Nancy.

10 MS. OSTIGUY: Yes.

11 CHAIRPERSON RIDDLE: Okay. Dave?

12 MR. CARTER: Yes.

13 CHAIRPERSON RIDDLE: Bea?

14 MS. JAMES: Yes.

15 CHAIRPERSON RIDDLE: George?

16 MR. SIEMON: Yes.

17 CHAIRPERSON RIDDLE: Rose?

18 MS. KOENIG: Yes.

19 CHAIRPERSON RIDDLE: Goldie?

20 MS. CAUGHLAN: Yes.

21 CHAIRPERSON RIDDLE: Kevin?

22 MR. O'RELL: Yes.

23 CHAIRPERSON RIDDLE: Andrea?

24 MS. CAROE: Yes.

25 CHAIRPERSON RIDDLE: Rigo?

1 MR. DELGADO: Yes.

2 CHAIRPERSON RIDDLE: Hugh?

3 MR. KARREMAN: Yes.

4 CHAIRPERSON RIDDLE: Julie?

5 MS. WEISMAN: Yes.

6 CHAIRPERSON RIDDLE: Gerald? Absent.

7 MS. CAUGHLAN: He's absent.

8 CHAIRPERSON RIDDLE: And Mike?

9 MR. LACY: Yes.

10 CHAIRPERSON RIDDLE: And the Chair votes yes,
11 so we have 13 yes, 0 no, 1 absent. Thank you. Okay,
12 please continue.

13 MR. KARREMAN: Okay. I would like to move
14 that we make another rule change, and the recommendation
15 would be --

16 CHAIRPERSON RIDDLE: Yeah, you can go ahead --

17 MR. KARREMAN: Okay.

18 CHAIRPERSON RIDDLE: -- and read it, and
19 Arthur's getting it up on the screen.

20 MR. SIEMON: Also handed out yesterday. No,
21 that's right, we changed it.

22 CHAIRPERSON RIDDLE: It's been --

23 MR. KARREMAN: No, this is from the two
24 meetings we've had since with the public input.

25 CHAIRPERSON RIDDLE: Right.

1 MR. KARREMAN: So I move that this
2 recommendation be considered by the whole Board.

3 MS. CAUGHLAN: Do we have paper copies?

4 MR. SIEMON: No.

5 CHAIRPERSON RIDDLE: No.

6 MR. KARREMAN: It's going to be up on the
7 screen here.

8 MR. SIEMON: Let me explain it. You have your
9 copy in your book.

10 MR. KARREMAN: Yes.

11 MR. SIEMON: We can explain what we did.

12 CHAIRPERSON RIDDLE: Well, it's better to --

13 MR. SIEMON: Okay.

14 MR. KARREMAN: It's up on the screen, folks.
15 Okay. So the rule change for 205.239(a)(2), the
16 committee -- the Livestock Committee recommends that it
17 be amended to read, ruminant animals' grazing pasture
18 during the growing season. (i): this includes all
19 stages of life except, A, birthing, B, dairy animals up
20 to six months of age, and C, beef animals during the
21 final finishing stage, not to exceed 120 days.
22 (ii): lactation of dairy -- lactation of dairy animals
23 is not a stage of life under which animals may be denied
24 pasture for grazing. I move that we accept this.

25 MS. OSTIGUY: Second.

1 CHAIRPERSON RIDDLE: Was that Nancy? Okay.
2 Hugh -- Hugh makes the motion and Nancy seconds adoption
3 of this proposed rule change. Bea?

4 MS. JAMES: I thought there was -- I thought
5 we were going to change the lactation comment so that it
6 was more -- it was more positive? Am I wrong on that?
7 I think, Andrea, you made that recommendation.

8 CHAIRPERSON RIDDLE: Andrea?

9 MS. CAROE: And we had talked about making it
10 a note in the comment before, so I'm sure -- this -- the
11 reformatting doesn't reflect the suggestion that I made
12 yesterday.

13 MR. KARREMAN: I do believe that if this
14 passes it would go the NOP to be worded grammatically
15 correctly. Is that -- I mean --

16 MS. CAROE: No.

17 MR. MATHEWS: It's best --

18 CHAIRPERSON RIDDLE: Richard or Arthur,
19 whichever.

20 MR. MATHEWS: It's best that your full intent
21 is conveyed as accurately as humanly possible before it
22 comes to us.

23 MS. CAUGHLAN: Yeah.

24 MR. KARREMAN: Andrea, what would --

25 CHAIRPERSON RIDDLE: Okay.

1 MS. CAROE: Did you say something about
2 that --

3 MR. SIEMON: I thought this was --

4 MS. CAROE: -- commented on the number two?

5 MS. OSTIGUY: Can I -- Hugh, didn't --

6 CHAIRPERSON RIDDLE: Nancy?

7 MS. OSTIGUY: Well, during the meeting -- the
8 Livestock Committee meeting that we just had, didn't you
9 say something about the (ii), the lactation portion, and
10 that Richard had said something about it?

11 MR. KARREMAN: I believe, but please correct
12 me if I'm wrong. This morning we had talked and you had
13 mentioned that -- the statement would be --

14 MR. MATHEWS: But where you're putting it is
15 fine.

16 MR. KARREMAN: Yeah, okay, that's what he
17 was --

18 MR. MATHEWS: Maybe what Andrea is bringing up
19 is how it's worded.

20 MS. CAROE: No, the placement.

21 MR. MATHEWS: She's not saying you can't use
22 it, she's saying she wants to clarify --

23 MS. CAUGHLAN: No, she didn't want the (ii).

24 MS. CAROE: Can I say what I'm saying?

25 MR. KARREMAN: How would you like it to --

1 MS. CAUGHLAN: You wanted to eliminate --

2 MS. CAROE: Let me explain what I'm saying.

3 CHAIRPERSON RIDDLE: Andrea, please, please,
4 please say what you say. Uh-huh.

5 MS. CAROE: I'll say what I say. My concern
6 yesterday was, the way it was listed as (i) and (ii),
7 you had a positive list of what those stages of life
8 were that would be considered, and (ii) was a stage of
9 life that wasn't considered. And the gap that you leave
10 with a positive and negative list is anything that is
11 outside of that and where does it fall. My suggestion
12 was to take the information that lactation is not a
13 stage of life to be considered and use that as a note in
14 the previous positive list. So you -- in other words,
15 what you would be saying is, these are things that are
16 stage of life and then a note for clarification that
17 lactation is not considered a stage of life.

18 MR. KARREMAN: How does NOP feel about that?

19 MR. MATHEWS: It works fine.

20 MR. KARREMAN: Okay. Well then, I move to
21 amend this.

22 CHAIRPERSON RIDDLE: Well --

23 MS. CAROE: Well, I'd like to motion for
24 amending this, and I can't see it. My contacts won't
25 let me see this. So -- but -- do you want to try the

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1 words with it?

2 MR. KARREMAN: I don't want to mess it up
3 and I --

4 MR. MATHEWS: What she said earlier --

5 MS. CAUGHLAN: You just move it up and
6 eliminate --

7 CHAIRPERSON RIDDLE: Richard?

8 MR. KARREMAN: Right.

9 MR. MATHEWS: She said note lactation for
10 dairy animals is not. So all you have to do is take out
11 the (ii) and write a note --

12 CHAIRPERSON RIDDLE: A colon. Okay.

13 MR. KARREMAN: I don't want to see this as a
14 footnote, I want to see it right in there.

15 CHAIRPERSON RIDDLE: You want to see it in
16 parentheses. Remove the parentheses, but just have note
17 colon.

18 MR. KARREMAN: No, just have it as a new
19 sentence right there after 120-days period and then say
20 the next word is lactation of dairy animals is not a
21 stage.

22 MS. CAUGHLAN: Leave the word note out.

23 MR. KARREMAN: Take note colon out of there,
24 please.

25 UNIDENTIFIED SPEAKER: No, no, no. No, no,

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1 no, it has to --

2 MR. KARREMAN: What?

3 MS. CAUGHLAN: See, this is what happens when
4 your words snap in.

5 CHAIRPERSON RIDDLE: As a committee.

6 MR. KARREMAN: And I'm not a wordsmith, so
7 whoever --

8 CHAIRPERSON RIDDLE: Is that a hand, Rose?

9 MS. KOENIG: Yes.

10 CHAIRPERSON RIDDLE: Rose.

11 MS. KOENIG: And it's a question for Richard.

12 If when we -- I still have a problem with the word
13 growing season. That can be misinterpreted. If there's
14 -- if it's droughty and plants don't grow, then the
15 temperatures are conducive to grow if you were
16 irrigating. And if there's no irrigation in an area and
17 plants are in dormancy because of the lack of moisture,
18 not a lack of temperature, would that be constituted as
19 a growing season? How do you define growing season? Is
20 it a temperate -- if the temperature is conducive, is
21 that fine? I don't -- that's what I don't understand
22 about growing season. Because like I said, for me, even
23 though I can produce crops all year, my growing season
24 isn't all year.

25 MR. KARREMAN: I think the question was --

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1 MR. MATHEWS: That's really better directed to
2 the Board than us.

3 MR. LACY: The question is for us.

4 MR. MATHEWS: The next question that the
5 committee should be --

6 CHAIRPERSON RIDDLE: Mike.

7 MR. LACY: Jim, I think that the Livestock
8 Committee's intent on this is a growing season is from
9 sometime in the spring to sometime in the fall.

10 MS. KOENIG: It doesn't work in the southern
11 region. So if you say when -- and I don't -- you know,
12 is it annual crops --

13 MR. LACY: I think --

14 MS. KOENIG: -- is it perennial crops?

15 MR. LACY: I'm sorry, Rose. I think for
16 pasture it does work in the southern regions. I think
17 it works in any region. There is a -- there is a
18 defined growing season for pasture, based on the type of
19 pasture it is, whether it's a cool weather pasture, cool
20 weather grass, or a warm weather grass or whatever. So
21 I think that is defined, or definable, I guess is what
22 I'm saying.

23 CHAIRPERSON RIDDLE: And I would just add to
24 that, in looking through some of the more detailed NRCS
25 standards for prescribed grazing, they do define the

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1 growing season where they have made those more specific
2 standards. So it certainly is definable. It doesn't
3 mean that it has been defined in every particular
4 county, but it is quantifiable.

5 MR. KARREMAN: And we will reference the NRCS
6 in the guidance document.

7 CHAIRPERSON RIDDLE: Yeah, later on.

8 MS. KOENIG: I'm just -- again, I guess I'm
9 not clear, because you're changing something to make
10 something more clear. I don't really understand why it
11 can't be access to pasture, anyway. I still don't
12 understand why that wording -- how significant that
13 change is. I haven't been convinced that there's a
14 difference. And I haven't been involved in the
15 committee's discussion, but if you're trying to improve
16 the understanding, what I'm saying is that I think Rose
17 even brings a different set of perhaps misinterpretation
18 of things, and --

19 CHAIRPERSON RIDDLE: Mike? I'm sorry. Were
20 you done? Mike?

21 MR. LACY: I think what we're trying to do,
22 Rose, is make sure that the intent is not missed here
23 and that animals are not put out on pasture when there
24 is not -- during a non-growing season, and that counts
25 as pasture. Does that make sense? So we are trying to

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1 clarify what constitutes grazing -- appropriate grazing.

2 MS. KOENIG: So you're saying you don't want
3 it to be misinterpreted that just putting an animal
4 outside versus actually outside and eating?

5 MR. DAVIS: Grazing means eating. If you look
6 at the pure --

7 CHAIRPERSON RIDDLE: Gerald, your mike,
8 please.

9 MR. DAVIS: Grazing, you know, technically, if
10 you want to analyze the term, would mean chomping off at
11 the roots and chewing it. I mean, at root level or
12 whatever --

13 CHAIRPERSON RIDDLE: Um-hum.

14 MR. DAVIS: -- that the animal is grabbing it
15 and they're not being fed it. Like it's been said that
16 some people are doing -- dumping bales of hay out in an
17 open lot or something like that. That is not --

18 MR. KARREMAN: That's not grazing.

19 MR. DAVIS: That's not grazing.

20 CHAIRPERSON RIDDLE: Right.

21 MR. KARREMAN: No.

22 CHAIRPERSON RIDDLE: And I think, you know, as
23 a member of the Livestock Committee, you know, we're
24 trying to respond to the numerous, you know, thousands,
25 actually, of comments that we've heard here, that

1 ruminants must graze when there is pasture available
2 during the growing season, and that's when there is
3 pasture. So we're trying to make an enforceable
4 standard that's predictable so people know what the
5 rules of the game are. I think this captures it
6 compared to access. Access is very fuzzy. This makes
7 it clear that ruminants must graze when there's
8 something out there to eat. We'll go to George and then
9 Kevin and then back to Gerald.

10 MR. SIEMON: Well -- and after this
11 recommendation here, we have a guidance document
12 recommendation that we'll further --

13 CHAIRPERSON RIDDLE: Um-hum.

14 MR. SIEMON: -- to meet what the growing
15 season and what our interpretation of this is. This is
16 the rule and next comes the guidance document. So we
17 put the two together, which, even though we're told
18 guidance doesn't have enforcement, at least it's about
19 interpreting this statement. So the two might help if
20 we look at them together. But that's the document you
21 were given yesterday with some changes we'll show you.

22 CHAIRPERSON RIDDLE: Kevin?

23 MR. O'RELL: Actually, George just answered my
24 question.

25 CHAIRPERSON RIDDLE: Okay. Gerald?

1 MR. DAVIS: The growing season stipulation
2 there, in arid regions of the country, is there going to
3 be any gray area on -- when there's no moisture and
4 nothing's growing, is that to be construed as that's not
5 the growing season, which is per a lot of the months of
6 the year in Arizona, for example.

7 CHAIRPERSON RIDDLE: Hugh.

8 MR. KARREMAN: I -- I don't know if we need to
9 put it in or not, but I would think that if you're
10 irrigating your farm in Arizona for crops for during the
11 growing season, then you shall be irrigating your
12 pasture for grazing during that same growing season.

13 MR. DAVIS: Exactly. But in the example of
14 the non-irrigated confinement farm who is trucking in
15 outside forages from -- purchasing them on the market
16 and not growing them themselves, does this give a
17 loophole, is my question, to say there's no growing
18 season here?

19 UNIDENTIFIED SPEAKER: Not with the guidance.

20 MR. KARREMAN: We believe, with the guidance,
21 that that is answered and we'll go over that.

22 CHAIRPERSON RIDDLE: Okay.

23 MR. SIEMON: I agree.

24 CHAIRPERSON RIDDLE: George.

25 MR. SIEMON: I agree it's a whole, but right

1 next to that farm, does the irrigated acre get nine
2 crops or six, seven crops of alfalfa right next door,
3 what is the growing season? You know --

4 MR. DAVIS: Well, here.

5 MS. KOENIG: Yeah, but --

6 CHAIRPERSON RIDDLE: Rose and then Kevin.

7 MS. KOENIG: That's -- if you want to use that
8 terminology, I don't have a problem with it if it's
9 defined, in my mind. Either do it via temperate and say
10 that, if the temperatures are conducive to the species'
11 growth, that's constituted as -- individual farms may
12 choose practices that do not allow something to grow.
13 So on farm A it's not in the growing season because I
14 don't irrigate and my grass is dormant. But next door
15 it is their growing season because they irrigate and
16 therefore the grass is growing. You could -- you know,
17 different -- it's like in the south, if I -- you know, I
18 just think that you're -- I don't know -- that that's --
19 to me the point is that unless you define growing
20 season --

21 CHAIRPERSON RIDDLE: Kevin, and then we'll go
22 to NOP comment.

23 MR. O'RELL: If there is guidance to determine
24 what is the growing season, shouldn't we share that now
25 so we understand? If we're discussing and voting on

1 something that uses the term of growing season, it would
2 be very helpful to understand that guidance and not have
3 it come later after we vote on this motion.

4 MR. KARREMAN: Yeah. Actually, I think we
5 could actually talk about the guidance document and
6 maybe leave this aside for now. I don't know how you do
7 that procedurally --

8 CHAIRPERSON RIDDLE: Well --

9 MR. KARREMAN: -- if it helps define --

10 MS. KOENIG: Well, but most terms that are not
11 clear in the regulation under the definition section and
12 are not in guidance documents that I can think of, at
13 least, where you would have some ambiguity and --

14 MR. KARREMAN: Yeah.

15 CHAIRPERSON RIDDLE: Okay, Rick?

16 MR. MATHEWS: I'm not offering a solution to
17 the problem, I'm just posing another question, okay,
18 just this is something for you to ruminate over.

19 CHAIRPERSON RIDDLE: Um-hum, yeah.

20 MR. MATHEWS: It might be possible to say
21 ruminant animals' grazing pasture, full stop. But then
22 that doesn't address the 120-day issue that others had
23 been bringing up. I know that you're talking about
24 doing something like that in guidance. The one thing
25 that I have to caution on is guidance isn't enforceable.

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1 So as much I hate just quantifying numbers that don't
2 work very well, this might be a spot where you have to
3 consider something like that in order to get around the
4 issue that Rose is bringing up. In other words, do you
5 say ruminant animals' grazing pasture, full stop, or do
6 you say ruminants' grazing pasture at least X number of
7 days during the course of the year? And maybe that gets
8 around your problem of this growing season. However,
9 whatever that date is, that number of days you set, it's
10 got to be doable even in a year of drought, because if
11 you don't, then your cows aren't organic anymore, okay?

12 CHAIRPERSON RIDDLE: Hugh?

13 MR. KARREMAN: I believe that's why we have --

14 MR. MATHEWS: Or at least you've got a
15 violation.

16 MR. KARREMAN: I believe that's why we have
17 those numbers that have been talked about in the
18 guidance document. That's all.

19 CHAIRPERSON RIDDLE: Right. Andrea?

20 MS. CAROE: Richard, I guess -- there's still
21 a possibility of a variance for inclement weather and --
22 well, I mean, we don't have a definition for inclement
23 weather, but in an extreme drought, would that be a
24 situation where somebody could claim that it's inclement
25 weather?

1 MR. MATHEWS: Well, we could explore that.

2 MS. CAROE: I'm not --

3 MR. MATHEWS: It's --

4 MS. CAROE: I'm not saying one way or another.

5 MR. MATHEWS: It would -- you would --

6 MS. CAROE: I'm just exploring --

7 MR. MATHEWS: Yeah.

8 MS. CAROE: -- the flexibility at this point.

9 MR. MATHEWS: Yeah. The thing about variances
10 are that you're supposed to request them ahead of time.
11 Obviously, if you had a variance because of you couldn't
12 meet the grazing time, a lot of that's going to be
13 dependent on how -- how you'd been grazing previous to
14 that time. So I mean, it might work fine in an area
15 where you have snow all winter, but it may not work so
16 well in Florida, where somebody had just not been
17 grazing and then suddenly decided to at the time that
18 the drought was coming along. So I don't know.

19 CHAIRPERSON RIDDLE: Well, I'll speak as an
20 individual Board member again and -- to me, I think this
21 as recommended here makes all the sense in the world.
22 It makes it clear that ruminant animals shall graze, and
23 then when they graze is during the growing season. That
24 is a quantifiable, regionally specific term. It doesn't
25 say that they have to graze every single day of the

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1 growing season. The guidance sets some, you know,
2 minimums that they have to be out, you know, 120 days
3 and a certain amount of their diet in guidance. But to
4 me this does set an enforceable standard compared to
5 what we have now, in combination with the guidance. And
6 I'd rather keep the numbers and guidance rather than
7 lock them into the regulation, personally.

8 MR. MATHEWS: Yeah. And one of the things is
9 that the growing season should be included in the
10 organic systems plan that is approved by the certifying
11 agent. So that should take care of the growing season
12 problem. I have a little concern about what you just
13 said, though, Jim, that you're not expecting the cows to
14 be out every day. And my reading is this is, the cows
15 are expected to be out there every day, with the
16 exception of the provisions that are provided elsewhere
17 in the regulations that would allow you to do it when
18 the weather conditions are such that the animals
19 shouldn't be out.

20 CHAIRPERSON RIDDLE: Exactly. And that's what
21 I meant by -- I didn't delineate those --

22 MR. MATHEWS: Okay. Well, I just --

23 CHAIRPERSON RIDDLE: -- but yes, inclement
24 weather, health and safety, risk to water and soil
25 quality, it just means that still the growing season is

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1 going on during some of those factors.

2 MR. MATHEWS: That's okay. Now it's on the
3 record --

4 CHAIRPERSON RIDDLE: Yeah, okay.

5 MR. MATHEWS: -- what we really mean, so you
6 don't have somebody coming along later saying, well, Jim
7 Riddle said.

8 CHAIRPERSON RIDDLE: Thanks, you're
9 projecting. You're looking after me. I appreciate
10 that. Looking out for me. I think we've had a good
11 discussion of this. I mean, unless there's something
12 new to bring up, I'd like to move ahead to a vote on
13 this item. George, anything to add?

14 MR. SIEMON: I hate to be duplicative, but
15 we're being told that the word note has the same
16 influence as any other part of this clause. To me a
17 note is a footnote. So I hate to go back, but note has
18 the same power as any other word in this rule, on the
19 record, I might add.

20 CHAIRPERSON RIDDLE: Well, we'll see if
21 they'll respond. Okay. Andrea, go ahead.

22 MS. CAROE: The reason I suggest note is
23 because that sentence is not inclusive of all things
24 that could not be stage of life.

25 UNIDENTIFIED SPEAKER: Right.

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1 MS. CAROE: So it's not inclusive. If you put
2 it there without note, it looks inclusive and it adds to
3 confusion to it. That's why this is an example given.
4 It could be an e.g. if you prefer, but it is not
5 inclusive, so it should not be put in there as a
6 statement standalone.

7 CHAIRPERSON RIDDLE: Richard?

8 MR. MATHEWS: Okay, I think we're getting into
9 a stage where we can bail you out. This -- I think that
10 the language as it's presented and the discussion that's
11 going to be in the transcript makes it real clear that
12 you're saying that lactating cows can not be withhold
13 from pasture for any reason other than an urgent issue,
14 such as they're sick or there's a hurricane coming
15 through or a tornado or something, so you would have
16 that. The -- we can work with the attorneys on the
17 wordsmithing that needs to be done. No matter what you
18 come up with and no matter what we then come up with,
19 the attorneys will surely tinker with it.

20 CHAIRPERSON RIDDLE: Um-hum, um-hum.

21 MR. MATHEWS: Okay? So I think, at this
22 point, the message is clear, unless somebody thinks
23 otherwise.

24 CHAIRPERSON RIDDLE: Okay. Dave has another
25 point.

1 MR. CARTER: Well, this is just a -- note.
2 Since we eliminated (ii), we no longer need the (i) up
3 there --

4 CHAIRPERSON RIDDLE: Yeah, good.

5 MR. CARTER: -- so just to clean it up.

6 CHAIRPERSON RIDDLE: All right. Okay, now I
7 think we've polished it all we can and -- Rigo, you
8 haven't said anything yet.

9 MR. DELGADO: I just have a question about the
10 procedure. If you're going to have the lawyers tinker
11 with our language, are we going to be able to look at
12 that language and make sure that it meant what we meant
13 it?

14 CHAIRPERSON RIDDLE: Well, just -- my response
15 is, it would be posted as proposed rule, so we along
16 with everyone else will have a change to tinker with the
17 lawyers' language. They are to respond and comment on
18 that lawyers' language, anyway. We won't be able to
19 tinker with it, but I wish we could. But we will be
20 able to comment on it and -- yeah, so -- all right. So
21 now we will move to the vote on this as it's been
22 amended, and we start with Dave.

23 MR. CARTER: Yes.

24 CHAIRPERSON RIDDLE: Bea?

25 MS. JAMES: Yes.

1 CHAIRPERSON RIDDLE: Bea is yes. George?

2 MR. SIEMON: Yes.

3 CHAIRPERSON RIDDLE: Rose?

4 MS. KOENIG: No.

5 CHAIRPERSON RIDDLE: Goldie?

6 MS. CAUGHLAN: Yes.

7 CHAIRPERSON RIDDLE: Kevin?

8 MR. O'RELL: Yes.

9 CHAIRPERSON RIDDLE: Andrea?

10 MS. CAROE: Yes.

11 CHAIRPERSON RIDDLE: Rigo?

12 MR. DELGADO: Yes.

13 CHAIRPERSON RIDDLE: Hugh?

14 MR. KARREMAN: Yes.

15 CHAIRPERSON RIDDLE: Julie?

16 MS. WEISMAN: Yes.

17 CHAIRPERSON RIDDLE: Gerald?

18 MR. DAVIS: Yes.

19 CHAIRPERSON RIDDLE: Mike?

20 MR. LACY: Yes.

21 CHAIRPERSON RIDDLE: The Chair votes yes. We
22 have 13 yes --

23 MS. OSTIGUY: Jim?

24 UNIDENTIFIED SPEAKER: Nancy, Nancy.

25 CHAIRPERSON RIDDLE: Oh, gees. Sorry --

1 MS. OSTIGUY: Yes.

2 CHAIRPERSON RIDDLE: -- Nancy. And then the
3 Chair votes yes after Nancy.

4 MS. OSTIGUY: Am I so unmemorable?

5 CHAIRPERSON RIDDLE: Well, I'm just looking --
6 I'm so narrow-minded. So we have 13 yes, 1 no, and no
7 abstentions. Okay, Hugh, I think you have --

8 MR. KARREMAN: Okay. Now we're going to move
9 on to the guidance document that previously the
10 Livestock Committee had put out on January 26, but we
11 have changed it and changed it again and yet again,
12 taking into account -- really taking into account the
13 public comment. And so I guess I probably should go
14 through --

15 CHAIRPERSON RIDDLE: And get a little closer
16 to that mike.

17 MR. KARREMAN: I should go through the whole
18 thing, I think, except maybe B. But anyway, I would
19 move that the Board accepts this guidance document for
20 pasturing -- for pasture ruminants.

21 MS. OSTIGUY: Second.

22 MR. KARREMAN: Okay. So I think I should read
23 it. Guidance for interpretation of 205.239(a)(2),
24 organic system plan. Ruminant livestock shall graze
25 pasture during the months of the year when pasture can

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1 provide edible forage. The organic system plan shall
2 have the goal of providing grazed feed greater than 30
3 percent dry-matter intake on a daily basis during the
4 growing season, but not less than 120 days. The organic
5 system plan shall include a time line showing how the
6 producer will satisfy the goal to maximize the pasture
7 component of total feed used in the farm system.

8 For livestock operations with ruminant
9 animals, the operations organic system plan shall
10 describe, one, the amount of pasture provided per
11 animal, two, the average amount of time that animals are
12 grazed on a daily basis, three, the portion of the total
13 feed requirement that will be provided from pasture,
14 four, circumstances under which animals will be
15 temporarily confined, and five, the records that are
16 maintained to demonstrate compliance with the pasture
17 requirements. Okay. So the latest changes are in the
18 italics up there on the screen.

19 MR. SIEMON: We replaced --

20 CHAIRPERSON RIDDLE: Well --

21 MR. KARREMAN: George?

22 MR. SIEMON: We replaced the existing second
23 line and made it give a whole new line. I'm sorry I
24 didn't mark the replacement.

25 CHAIRPERSON RIDDLE: Okay. Well, let's just

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1 stay focused on this paragraph. Any comments or just
2 clarification questions? Andrea?

3 MS. CAROE: So none of this language was
4 posted at all and we have no public comment on this?

5 MR. KARREMAN: Part of the language was
6 posted.

7 CHAIRPERSON RIDDLE:

8 MS. CAROE: On this new language --

9 MR. KARREMAN: No.

10 MS. CAROE: -- in this new concept.

11 MR. KARREMAN: That's correct. And I would --
12 I would recommend, if I may at this time, or later
13 do I --

14 CHAIRPERSON RIDDLE: Well --

15 MR. KARREMAN: Well, okay.

16 CHAIRPERSON RIDDLE: -- most of this was
17 posted, but the rest is responding to the massive public
18 comments which are incorporated into this draft.

19 MR. KARREMAN: This guidance document that
20 we're going to be reading through here is -- I feel
21 should have -- should be moved upon by us and put out
22 for public comment.

23 CHAIRPERSON RIDDLE: Yeah, so --

24 MS. CAROE: So the recommendation -- the
25 motion changes.

1 CHAIRPERSON RIDDLE: Well, it could or it
2 could not. We can vote to adopt, with the understanding
3 that it will be posted for a round of public comment,
4 and then if there needs to be reconsider, next time we
5 will. But, Rick, would you help us here and then --

6 MR. MATHEWS: Arthur reminds me that he looked
7 at the guidance document out now on how we're going to
8 do guidance documents. So if you're sending us
9 something for guidance, we'll offer guidance with that
10 procedure, most likely --

11 CHAIRPERSON RIDDLE: Uh-huh, uh-huh.

12 MR. MATHEWS: -- which, then, there will be
13 public comment on the guidance document.

14 CHAIRPERSON RIDDLE: Good point --

15 MR. KARREMAN: Because -- Andrea?

16 MS. CAROE: Well, I just want to know --

17 CHAIRPERSON RIDDLE: -- automatically.

18 MS. CAROE: -- the procedure is after that --
19 you know, I mean, obviously, from the testimony that
20 we've received here, the dairy producers are very
21 engaged in this process and do want a voice in this
22 process. This is substantive input that's been included
23 in this and I want -- I think that the final document
24 should really reflect the broader comments, not just
25 those producers that have been here. Although we put a

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1 lot comments, it doesn't represent the universe of dairy
2 -- organic dairy farmers. So my question, though,
3 related to after those comments get -- come back in, the
4 responsibility of the committee and the Board to address
5 those in the guidance.

6 CHAIRPERSON RIDDLE: Um-hum.

7 MR. KARREMAN: I agree with that.

8 CHAIRPERSON RIDDLE: Yeah.

9 MR. MATHEWS: Jim?

10 CHAIRPERSON RIDDLE: Okay, Rick and then
11 Kevin.

12 MR. MATHEWS: There seems to be -- there seems
13 to be avenues. One, you can go ahead and do your thing
14 on this guidance document, with the understanding that
15 we'll do nothing with the guidance document other than
16 to post it so that you can receive comment on it. And
17 then you can act on it again in the fall. The other
18 option is for you to send it to us to do a guidance
19 document through the public comment process. It's up to
20 you.

21 CHAIRPERSON RIDDLE: And my understanding of
22 the way it's been presented now would be for the Board
23 to send it to NOP. That's the motion that's on the
24 table. Kevin, I've been saying -- you want to get
25 recognized. You're too close to be recognized.

1 MR. O'RELL: I understand. Well, I guess what
2 I was going to put out for a point of discussion is the
3 fact that, I think, since we had some information -- new
4 information, following up with Andrea said, that it
5 should be a recommendation from this Board to be posted
6 for additional public comment, to be acted on -- upon at
7 the next meeting.

8 MS. KOENIG: Instead of going to the NOP
9 first, is that what you're saying?

10 MR. O'RELL: That's what I'm saying.

11 MS. KOENIG: Yeah, I agree with that.

12 CHAIRPERSON RIDDLE: Well, that --

13 MR. KARREMAN: Yeah. Yeah, I can agree with
14 that --

15 MR. CARTER: Well --

16 MR. KARREMAN: -- because there are things in
17 there.

18 MR. CARTER: Okay, procedure.

19 CHAIRPERSON RIDDLE: Yeah, Dave?

20 MR. CARTER: I would recommend -- as long as
21 we understand what the -- what the options are in doing
22 this. Now we have the motion on the table. We let the
23 maker of the motion finish reviewing the document, and
24 then if you want to amend that to specify, you know,
25 which way it will be handled, would be probably the

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1 clearest way to do it.

2 CHAIRPERSON RIDDLE: A good suggestion. So
3 please proceed.

4 MR. KARREMAN: I apologize. I don't know all
5 this procedural maneuvering, so --

6 CHAIRPERSON RIDDLE: Oh, obviously we do.

7 MR. KARREMAN: -- I'm learning it on the spot.
8 I'm learning it as we go. All right, should I read B?

9 CHAIRPERSON RIDDLE: And stay close to the
10 mike.

11 MR. KARREMAN: Should I read B, temporary
12 confinement?

13 CHAIRPERSON RIDDLE: Yes. Yeah, let's --

14 MR. KARREMAN: Okay.

15 CHAIRPERSON RIDDLE: -- let's go through the
16 draft.

17 MR. KARREMAN: Okay, temporary confinement.
18 Temporary confinement means the period of time when
19 ruminant livestock are denied pasture. The length of
20 temporary confinement will vary according to the
21 conditions on which it is based, such as the duration of
22 inclement weather; and instances of temporary
23 confinement shall be the minimum time necessary. In no
24 case shall temporary confinement be allowed as a
25 continuous production system. All instances of

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1 temporary confinement shall be documented in the organic
2 system plan and in records maintained by the operation.
3 Temporary confinement is allowed only in the following
4 situations: one, during periods of inclement, such as
5 severe weather occurring over of period of a few days
6 during the grazing season; two, conditions under which
7 the health, safety, or wellbeing of an individual animal
8 could be jeopardized, including to restore the health of
9 individual animal or to prevent the spread of disease
10 from an infected animal to other animals; three, to
11 protect soil or water quality. That has stayed the
12 same. Is there any discussion on that?

13 CHAIRPERSON RIDDLE: Andrea?

14 MS. CAROE: You're tired of hearing from me.
15 I just want -- this is very vague guidance and it has
16 been, and there's no definition of what is inclement
17 weather. There's no definition to what constitutes a
18 problem for health, wellbeing or the other one. I don't
19 remember the other --

20 MR. SIEMON: Soil and water quality.

21 CHAIRPERSON RIDDLE: Soil and water.

22 MS. CAROE: Soil. You know, there's no
23 definition of what the constraints are of those. If
24 it's raining, is it inclement weather? Can I make a
25 case for it in my organic system plan? I mean, I just

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1 want this committee to recognize, you're offering
2 guidance to provide some definition, yet there's still a
3 whole lot of areas that need definition.

4 CHAIRPERSON RIDDLE: Hugh and then George.

5 MR. KARREMAN: I think, as far as the
6 inclement weather goes, when we do say over a period of
7 a few days, meaning, you know, like a hurricane, a
8 tornado, some act of god.

9 MS. CAROE: What's a few? I mean, I'm just
10 saying that these are words that --

11 MR. KARREMAN: Yeah. No, that's fair, that's
12 fair.

13 MS. CAROE: -- have a whole lot of --

14 MR. KARREMAN: Yeah.

15 MS. CAROE: You know, I can say that 30 days
16 is a few days in the bigger picture of life. But, you
17 know, I'm looking at this from a certifier's view, and
18 it is -- you're leaving it up to the certifier to make
19 some judgment decisions, which is fine. I'm just asking
20 that you recognize that there are judgments being made
21 here.

22 CHAIRPERSON RIDDLE: George?

23 MR. SIEMON: I just want to make sure we
24 understand this within the context of are you delivering
25 an organic system plan that's going to deliver some very

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1 specifics. You have to show that. Now, inside of that
2 there may be reasons to do it, but you can't -- you have
3 to first satisfy the top one. And yes, they are vague,
4 but they're very specific goals that you are shooting
5 for, that you delivered a plan that you can deliver on.
6 Those are very specific.

7 CHAIRPERSON RIDDLE: Yeah, I want to comment,
8 also, that hopefully you know that those -- the
9 temporary confinement is already allowed in the rule and
10 just with the words inclement weather, and this does
11 provide further guidance to producers and certifiers on
12 the limits of inclement weather. And the same thing to
13 the health and safety of the animals, it gives further
14 guidance. And yes, it is a bit, number one, a
15 discretion of the operator, of the farmer, and then the
16 discretion of the certifier in assessing how their plan
17 and their performance has complied with the rule. But
18 this does provide further guidance than currently
19 exists, and it's not changing the rule. Dave?

20 MR. CARTER: Well, I want to agree. You know,
21 Andrea, I agree with you, but I think, also, it's
22 difficult to make something for us that's going to be
23 over -- I mean, you talk about, you know, three days or
24 thirty days, or you know, are we going to get into
25 defining a level three hurricane as opposed to a level

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1 five hurricane? And so you know, that's when we get
2 down to some of these other areas and start tying it
3 into NRCS, and I think it provides some guidance to
4 those certifiers. But a lot of times, I mean, there
5 still is going to be -- you know, there's going to be
6 some calls, so we can't be overly proscriptive.

7 CHAIRPERSON RIDDLE: Okay, we've had a
8 discussion of that --

9 MS. CAROE: And I just want to say that --

10 CHAIRPERSON RIDDLE: -- and is there something
11 new?

12 MS. CAROE: I just want that to be recognized.

13 MR. CARTER: Yeah.

14 CHAIRPERSON RIDDLE: Okay.

15 MS. KOENIG: That's what I'd ask.

16 MR. CARTER: Yeah.

17 CHAIRPERSON RIDDLE: All right. Rose?

18 MS. KOENIG: I just -- again, with the severe
19 -- I just want to make people aware that, you know, in
20 the south in the summer, if you went on any weather
21 computer station, almost every day it's going to say
22 severe weather -- you know, severe thunderstorms. So
23 for four months you're likely to have severe weather.
24 Is that consider a severe weather event that would be --
25 I mean, because it would end up being temporary

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1 confinement for a couple -- the summer season, and
2 somebody could verify that almost every day, if you look
3 up the National Weather Service site, that they'll say
4 severe thunderstorms.

5 CHAIRPERSON RIDDLE: Hugh?

6 MR. KARREMAN: If that's the case, I would --
7 I don't live in Florida, but perhaps March through June
8 it's nice, then June through August or whenever having
9 that weather, or after the hurricanes, in September and
10 October through November it's nice again and that's 120
11 days, two months in the beginning and two in the end. I
12 don't know, I don't live in Florida.

13 CHAIRPERSON RIDDLE: Kevin?

14 MR. O'RELL: Hugh, I just -- I want to
15 understand what the motion is that's on the floor. Is
16 it the motion for this issue to be a guidance document
17 that we're voting on to post on the website for public
18 comments?

19 CHAIRPERSON RIDDLE: Let's come back to
20 that --

21 MR. O'RELL: Okay.

22 CHAIRPERSON RIDDLE: -- once he's done
23 presenting it. We will get clear on that.

24 MR. O'RELL: Okay, so long as we get clarity.

25 CHAIRPERSON RIDDLE: Yeah, okay, let's go to

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1 number C, I guess.

2 MR. KARREMAN: Okay, C.

3 CHAIRPERSON RIDDLE: Uh-oh, Bea had one on B.

4 MS. JAMES: Hugh, you're doing really good.
5 I'm impressed.

6 MR. KARREMAN: We'll see by the end.

7 CHAIRPERSON RIDDLE: Do you want the turkey?

8 MS. JAMES: I guess, as long as we're really
9 trying to analyze language in this -- in this section,
10 that the one thing that I have a question on more than
11 anything is the term temporary confinement, and that,
12 you know, we all know in our minds what that means, that
13 we're assuming that anybody who is handling their
14 livestock is going to consider that as, you know, only a
15 few days out of a season. But I think that there's the
16 potential for misuse with those who don't necessarily
17 follow the rules and try to read between the lines, and
18 I think we just need to really be clear in our
19 definition about -- about what we mean by temporary
20 confinement, just for those who really -- you know, I'm
21 just taking into consideration, yesterday, that we heard
22 from so many people who felt that -- that that is
23 currently being -- that that particular aspect is
24 currently being abused. And so we need -- I think we
25 need to really look at that.

1 CHAIRPERSON RIDDLE: Hugh?

2 MR. KARREMAN: I think that's what we're
3 trying to do in this whole process, because I think part
4 -- stage of production was under temporary confinement
5 previously, and we're making, you know, for the
6 lactating cows that are being held in, let's say, when
7 people think they shouldn't be. That is now becoming a
8 rule change so that that can not be a temporary
9 confinement, and that is where a lot of people had
10 problems with the temporary confinement, that milk cows
11 were being kept in away from grass -- grazing.

12 MS. JAMES: Right. But I just think that with
13 a lot of the -- the wording in here, when you talk about
14 inclement weather, severe weather, a few days, that
15 there are people out there, unfortunately, that may not
16 be real -- that they might try to interpret that and be
17 able to reinterpret that as a justification, if they
18 were to be inspected and be called on, not following
19 that.

20 CHAIRPERSON RIDDLE: And, yeah, a comment and
21 then Nancy. Temporary confinement is allowed in the
22 rule and is not defined, and I think the first
23 paragraph, in combination with the items in that second
24 section, gives a lot more guidance, restrictions,
25 definition to temporary. Temporary means temporary, and

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1 I think -- well, I would assume that at least most of
2 the producers who spoke yesterday utilized temporary
3 confinement at one time or another during the growing
4 season. So you know, it's something that certainly
5 needs to exist with certain boundaries.

6 MS. JAMES: Yeah, I guess I would just like it
7 to go on the record that I don't think it's defined well
8 enough here.

9 CHAIRPERSON RIDDLE: Well, tell us what you
10 want.

11 MS. JAMES: I want it to be better defined.

12 CHAIRPERSON RIDDLE: Well --

13 MS. JAMES: And -- and I think that --

14 CHAIRPERSON RIDDLE: Yeah, but how?

15 MR. O'RELL: Well, yes.

16 MS. JAMES: -- if we do -- if we go with what
17 Kevin was proposing --

18 CHAIRPERSON RIDDLE: Okay.

19 MS. JAMES: -- and we get more people to
20 comment --

21 CHAIRPERSON RIDDLE: We can keep working on
22 it.

23 MS. JAMES: Yeah.

24 CHAIRPERSON RIDDLE: Nancy?

25 MS. OSTIGUY: We actually, I believe, have a
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1 choice when we do the -- any of these things. We can be
2 incredibly proscriptive and try and go after the
3 individuals who are not following the spirit of OFPA, or
4 we can do what is clear for hopefully most everybody, so
5 that folks understand the parameters under which they
6 need to function, and when there are problems, fix them.
7 So I would really prefer to leave things as they are,
8 assuming we don't get tons of public comment telling us
9 that they want numbers, because we need flexibility for
10 our geographic differences around the country.

11 CHAIRPERSON RIDDLE: Now, Dave and then Bea.

12 MR. CARTER: Well, yeah. And I think, you
13 know -- and, Bea, not be flippant, that's what we're
14 continually -- that's what we've been wrestling with in
15 the Livestock Committee, is how do we start drawing some
16 definition around it, you know, without getting overly
17 proscriptive, even when it comes to, you know, terms of
18 illness. I mean, we -- you know, critters are critters
19 and you don't have -- you don't have the ability to know
20 how long one is going to stay sick and have to be in the
21 barn as opposed to another. And so we can't, you know,
22 do that. Now, if you look at the document and the
23 guidance that's being provided here, it does start to do
24 -- I mean, the inclement weather then talks about severe
25 weather occurring over period of a few days, which is in

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1 more detail than is in the rule. Health, safety, and
2 wellbeing of an individual animal could be jeopardized,
3 and it goes into more detail there. And so we're trying
4 to do that, you know, at this point. And I think as it
5 goes on, you know, there'll be some additional comment.

6 CHAIRPERSON RIDDLE: Bea, yeah.

7 MS. JAMES: Okay. Yes, I agree, critters are
8 critters, but people are people, too, and that as this
9 industry grows and more and more people become
10 interested in capitalizing on this industry, there are
11 certain segments of what we are responsible for, making
12 sure -- hold the integrity of those people, and I think
13 that there are going to be situations where we do have
14 to get more proscriptive in our language, because there
15 is the potential for misuse.

16 MS. OSTIGUY: I have a question.

17 CHAIRPERSON RIDDLE: Yeah. Well, we still
18 have one more section to present, and then -- and then
19 be clear on what the question is. So, Hugh, would you
20 -- oh, yeah, sorry.

21 MR. MATHEWS: I've found all of this
22 discussion to be absolutely fascinating.

23 CHAIRPERSON RIDDLE: Well, I'm glad we're
24 keeping you entertained.

25 MR. MATHEWS: Temporary confinement definitely
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1 is still a problem. You do have people out there who
2 undoubtedly are taking advantage of the wording as it
3 is. For example, you could have broiler chickens who
4 never see the light of day, and I know you don't want
5 that to happen, but it is happening. And so at some
6 point down the road, you do need -- and today is not the
7 time to do it, but you do need to go back to this issue
8 and look at it from all angles and try to come up with
9 something that lends a little more concreteness to the
10 issue, so that -- so that we can eliminate what people
11 are using as loopholes. Unfortunately, it's just like
12 -- Kim can tell you. For personnel actions, you always
13 write the personnel rules for the bad guy, and all the
14 rest of them suffer because of it. But I see that as
15 being the same kind of situation here, where you have to
16 write your regulations to prevent the bad guys from
17 taking advantage of it. And it's -- and I'm not talking
18 in terms of dairy, I'm talking in terms of all animals
19 that are supposed to be provided with access to the
20 outdoors. There's 101 reasons, and probably even more,
21 of why I can't put my animal out today.

22 CHAIRPERSON RIDDLE: Okay, well, it's been an
23 informative and entertaining discussion so far. Hugh,
24 would you like to present the last point?

25 MR. KARREMAN: May I just add one thing right

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1 before that, that I believe what we're doing here right
2 now is tightening up a lot of those loopholes that
3 presently exist. It might not be perfect, but it's
4 certainly going that way.

5 CHAIRPERSON RIDDLE: But we're doing it in the
6 context of guidance --

7 MR. KARREMAN: Right.

8 CHAIRPERSON RIDDLE: -- and we may need to --
9 as we post this, get more input, take it to a rule
10 change on this particular item is what I'm hearing.
11 Please proceed.

12 MR. KARREMAN: Okay. So appropriate pasture
13 conditions. Appropriate pasture conditions --
14 appropriate pasture conditions shall be determined in
15 accordance with the regional Natural Resources
16 Conservation Service conservation practice standards for
17 prescribed grazing, Code 528, for the number of animals
18 in the organic systems plan. And therefore I think that
19 might answer a little bit to Rose's concerns in your
20 specific region, because the NRCS would -- is specific
21 to regions, about growing season and pasture and
22 whatnot. And I think that speaks to that, maybe not
23 perfectly well, but it does. And since there's been a
24 lot of discussion on this, and before we call the
25 question, is it -- it's up to the Chairman, of course.

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1 Would it be possible to maybe have just any kind of
2 informative interjection from the farmers that are
3 specific to changes that we've discussed in the last two
4 meetings in the last 24 hours?

5 CHAIRPERSON RIDDLE: Well, yeah, I understand
6 that one person will present some comments or is
7 prepared to present some comments in reaction to the
8 changes we're proposing, and I think it would be
9 informative to all of us to take the time to hear that,
10 so long as they are as concise as possible. So if we
11 can ask Tony to approach the podium and give us some
12 reaction on what we have on the table right now. It
13 looks like --

14 MR. a: Thank you very much. And I --

15 CHAIRPERSON RIDDLE: You can bend that up so
16 you don't have to bend over. There you go.

17 MR. ACEVEDO: My name is Tony Acevedo from
18 California, the San Joaquin Valley, and I'm a dairy
19 farmer, 350 acres, 600 head, irrigated -- irrigated
20 ground. I'd like to say that I'm very impressed with
21 the accomplishments here. You're making my job very
22 easy. There is -- on the rule change, we would like to
23 see just a couple of words added -- if you look on that
24 paper in front of you -- and the words are maximum;
25 growing suitable grasses and other forages from which

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1 animals graze; plant life material still connected to
2 the roots. But we don't feel that these are major
3 changes, but just it helps to define so that there is
4 not any confusion. And I've noticed a great deal of
5 consideration to trying to define these and I'm very
6 impressed with that.

7 CHAIRPERSON RIDDLE: And just on that point,
8 I'll just respond that the definition of pasture is not
9 part of our recommendation right now. That would be a
10 relevant comment to submit and for the Livestock to
11 consider if that pasture definition should be further
12 refined. But that would be a different rule change. So
13 I appreciate that comment, but it's not exactly germane
14 to what we're --

15 MR. ACEVEDO: It does not apply here?

16 CHAIRPERSON RIDDLE: Yeah.

17 MR. ACEVEDO: I apologize for that.

18 CHAIRPERSON RIDDLE: Okay.

19 MR. ACEVEDO: The only thing that I still hope
20 that you would take into consideration, because it would
21 solve a lot of problems, on the guidance document, not
22 as a rule change, not as a rule, but the guidance
23 document. I come from an area that 25 years ago we had
24 a per cow -- so many cows per acre and it was set by the
25 county, and it was a standard figure so that

1 overstocking wasn't allowed, and they decided for
2 economical reasons to erase that. Because they erased
3 that, I am now in one of the worse counties in
4 California as far as water quality and air pollution.
5 So by adding a three-cow per acre, it is -- it does not
6 keep anyone out of organics, but just for water quality
7 or the health of the soil. And I feel this is just very
8 important to have at least in the guidance document and
9 I'm hoping that you will consider that. Is there any
10 questions?

11 CHAIRPERSON RIDDLE: I think you're real clear
12 on that, and I guess I would ask if any of the Board
13 members would care to offer an amendment to insert a,
14 you know, maximum stocking rate of three cows per acre
15 into the draft, and if not, then we'll just take it, you
16 know, as comments, but resubmit it once this gets close
17 -- Nancy?

18 MS. OSTIGUY: I would actually like to the
19 committee to look at this, because my interest -- I have
20 no problem with three cows per acre. What I'm curious
21 about is what the geographic differences are. There are
22 some places where three cows per acre is way too many,
23 which that's fine, but there are some places where it
24 might be okay, and I don't want to constrain things if
25 we don't have to, but it may work. So I'd like for the

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1 committee to look at it is what I'm saying. Not that we
2 disagree.

3 MR. ACEVEDO: Well, I felt -- or the reasoning
4 behind these numbers -- and I need to -- this is numbers
5 that were taken from across the United States. It
6 wasn't just a segment from the east or the west or the
7 north. It is better to set a bar that everyone can go
8 under, and that's why the number three came up. Now,
9 the other reason number three came up, because as you
10 well know, a thousand-pound cow puts out 80 pounds of
11 feces a day. So you times that by three and then you
12 times that by 365 days, because even when she's in
13 confinement, that farm has to handle that waste. That's
14 -- you know, that's about all you can do, you know,
15 you're right there. But as far as pasturing, it's just
16 a -- it's just a maximum.

17 MS. OSTIGUY: Yeah. Well, my only concern is
18 putting the number there, when we haven't looked at it
19 all. I was very comfortable -- am very comfortable with
20 the 30 percent and 120 days because we discussed those
21 kinds of things. It's just to make sure that we're more
22 informed than to put a number to something.

23 CHAIRPERSON RIDDLE: Hugh and then Andrea.

24 MR. ACEVEDO: Do you want me to sit down?

25 CHAIRPERSON RIDDLE: I think so. If we have

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1 another question, we'll call you.

2 MR. ACEVEDO: He said yes, you said no.

3 CHAIRPERSON RIDDLE: Oh. Well, maybe he has a
4 question for you.

5 MR. ACEVEDO: Okay.

6 MR. KARREMAN: No, it's just to -- I
7 personally don't have a problem with the three cows per
8 acre max. But I think it's a lot better basis for
9 making decisions in the agro-ecology of organic dairy
10 farms, in whatever region, if we are to look at the NRCS
11 stocking rights, and that will be different per county
12 in the United States. So maybe you'll only have two
13 cows per acre in certain areas, maybe you'll have four.
14 I don't know, but it's all site-specific. That's why
15 I'm a little hesitant with just -- I can agree with it,
16 but I'd rather rely on the Conservation Service for
17 that. That's just my opinion.

18 CHAIRPERSON RIDDLE: Andrea and then Gerald.

19 MS. CAROE: Based on what we're hearing here
20 today as the concept as it's being presented and the
21 fact that it's new, I strongly urge this Board to
22 present this for comment only and not enter it as a
23 recommendation to the NOP, and get that bigger picture
24 view from these organic dairy farmers. I don't know if
25 three cows, whether it's viable or not. I shouldn't be

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1 making that decision. That information needs to be
2 coming from the industry.

3 CHAIRPERSON RIDDLE: Thank you. Gerald?

4 MR. DAVIS: My comment's similar. In the
5 comment period, I would hope all the people would weigh
6 in in the comments of what -- they would point out
7 deficiencies in the NRCS data across the country. It'd
8 be interesting to see how many comments we get, well, in
9 my area, it's no good or they've deleted the -- there's
10 no funding or all that kind of stuff, or there's nothing
11 that exists that -- maybe it's more well-developed in
12 New York or Lancaster, Pennsylvania, where Hugh is from
13 and relies on them heavily.

14 MR. ACEVEDO: So it would be put in for public
15 comment, is that what I'm understanding?

16 MS. CAUGHLAN: Yes.

17 MR. ACEVEDO: Oh.

18 CHAIRPERSON RIDDLE: The draft, but not -- the
19 three cows per acre, no one's offered an amendment, so
20 it currently stands as it's been presented by Hugh. But
21 the --

22 MS. JAMES: I would like to offer an
23 amendment.

24 CHAIRPERSON RIDDLE: Well, I recognize Richard
25 first. He was waving his hand, so hold your amendment.

1 Richard?

2 MR. MATHEWS: Okay. I'll try to keep it brief
3 so Bea can offer her amendment. The thing that I want
4 to remind everyone of is that you've got some numbers in
5 this guidance document. I have no problem with that. I
6 mean, if you want to use 30 percent, 120 days, three
7 animals per pasture, I have no problem with that. But I
8 have to say that all three of those figures in a
9 guidance document are unenforceable. So if somebody
10 came up with 25 percent, we can't suspend or revoke. If
11 somebody only did 119 days, we can't suspend or revoke.
12 If somebody put five cows on that pasture instead of
13 three, I can't suspend or revoked based on the fact that
14 they exceeded the number in the guidance document.

15 Now, if they are guilty of polluting the
16 environment because they are overgrazing, that's another
17 matter. I can't go after people for overgrazing, I
18 mean, because there's nothing there that defines quality
19 of pasture in a quantifiable way that we can determine
20 whether or not somebody's overgrazing. So it becomes
21 very difficult for certifying agents to know when
22 something is an offense that is enforceable. So it's --
23 the numbers are nice, but as a guidance document, they
24 don't have any teeth, okay? So I just want to remind
25 you of that.

1 The problem with putting numbers in, as I see
2 them, and I had the great fortune of talking to about
3 200 dairy farmers in the past month, and I find that,
4 very interesting, they all have some good ideas. The
5 one thing that I caution everyone at when I talk to them
6 is, are you creating a standard in which you can't meet?
7 And the reason -- the things that concern me is that --
8 and I'm not saying that the three is a wrong number. It
9 may very well be the right number. I heard an extension
10 agent say three is the right number. I heard a dairy
11 farmer argue that the quality of his pasture is so good
12 that he can do four. I've heard others say, well, I
13 know Joe over there, he couldn't do one on 10 acres,
14 okay? And part of that problem, as I see it, for
15 setting stocking rights is that you also have to have a
16 pasture quality statement, and I don't know where we are
17 at this point with quality of pasture. And I do know
18 that he was trying to address some of that through these
19 amendments that he's offering, and that's why the NRCS
20 is in there, it's trying to get to the quality of
21 pasture up. So I mean, I'm not passing judgment on
22 anything, I'm just tossing out some what ifs, some
23 things to think about.

24 CHAIRPERSON RIDDLE: Okay. Bea and then Dave.

25 MS. JAMES: Well, I don't know now. It's

1 like --

2 CHAIRPERSON RIDDLE: Okay.

3 MS. JAMES: I've got to think about it now.

4 CHAIRPERSON RIDDLE: Well, we can't accept
5 that as a motion.

6 MS. JAMES: No. You know --

7 CHAIRPERSON RIDDLE: That's okay.

8 MS. JAMES: -- I'm just like -- you know, I'm
9 confused.

10 CHAIRPERSON RIDDLE: All right. Well -- all
11 right. Dave?

12 MR. CARTER: Yeah, that's not a motion,
13 that's --

14 CHAIRPERSON RIDDLE: Dave, and then I have a
15 comment, and then Rose.

16 MR. CARTER: It's not a motion, that's an
17 emotion, and I'll second that. But the --

18 MR. MATHEWS: Jim?

19 MR. CARTER: No, wait. I will -- let me, if I
20 can -- the other thing, let's remember, is that when
21 we're talking about setting rules for organic system
22 plans and access to pasture and everything, that not
23 every animal out there is a dairy cow, and not every
24 ruminant is a dairy cow. And so we're trying to carve
25 -- we're trying to frame some things in terms of the

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1 excrement that comes out of the backend of a dairy cow,
2 you know, et cetera and so on. And that's why I prefer
3 to go with the regional and NRCS, where it talks about
4 regions, it talks about animal units, those type of
5 things. And I think that if we say no more than three
6 here and then, you know, the NRCS down there, it creates
7 more confusion than it does clarification.

8 CHAIRPERSON RIDDLE: Okay. I have a comment
9 and it's in response to Rick's comment about not being
10 able -- a certifier and USDA not being able to take
11 action against overgrazing, and I certainly hope that
12 that's not the case, because the definition of pasture
13 is very clear, that the -- well, that it's managed to
14 provide feed value and maintain or improve soil, water,
15 and vegetative resources. So if someone is degrading
16 vegetative resources through their overgrazing, that
17 could be a cause for action.

18 MR. MATHEWS: But -- yeah --

19 CHAIRPERSON RIDDLE: So --

20 MR. MATHEWS: -- it could be, but -- I mean,
21 it could also get into a situation of splitting hairs --

22 CHAIRPERSON RIDDLE: Sure.

23 MR. MATHEWS: -- and he said, she said type of
24 thing.

25 CHAIRPERSON RIDDLE: Sure, yeah.

1 MR. MATHEWS: Which would be more difficult.

2 CHAIRPERSON RIDDLE: But in the extreme.

3 MR. MATHEWS: Yeah.

4 CHAIRPERSON RIDDLE: Okay.

5 MR. MATHEWS: Well, in the extreme, it's going
6 to be pretty obvious --

7 CHAIRPERSON RIDDLE: Yeah.

8 MR. MATHEWS: -- if they're overgrazing.

9 CHAIRPERSON RIDDLE: Yeah. But there could be
10 action. Rose? And then I saw one over here.

11 MS. KOENIG: Well, I mean, I have nothing
12 wrong with the guidance document per se, but what I'm
13 hearing and what I stated yesterday is that I believe --
14 and I don't think it can be accomplished at this
15 meeting, you know, which I don't have a problem with
16 that. But I think, in fact, that you want an
17 enforceable regulation, you want to quantify it in the
18 regulation, and if you're not prepared to do it today, I
19 think the guidance document couldn't go forth as far as
20 a draft, because that's what it is, it's guidance. But
21 I still believe that you want to see a quantifiable
22 measure within a rule in this case and I don't think
23 you're ready to do -- I am certainly not ready to vote
24 on it today and I don't think that your committee -- you
25 know, I think the farmers -- and I'm thinking as a

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1 farmer. I'm not a dairy farmer, but I know, I think,
2 what farmers feel and they would rather see this Board
3 and this Program do it right, because six or nine months
4 really is a very -- even though said 18 months was a
5 lot, in terms of the impact, it's huge for growers, and
6 we're willing to learn -- I am. I honestly will, but I
7 am a grower. I think we're willing to wait for the
8 right change rather than to not do something that will
9 not achieve what ultimately all these folks want.

10 CHAIRPERSON RIDDLE: Okay. I was going to hit
11 you, but that's your broken arm. Kevin?

12 MR. O'RELL: Well, I just want to echo Rose's
13 sentiments that, you know, we've gone through a process
14 here and we have passed a motion for a rule change, too,
15 which is -- which is significant, it's significant
16 progress, and that rule change will take 18 to 24 months
17 to be effective. Why are we rushing with a guidance
18 statement that supports that rule change? I think we
19 really need to publish the guidance statement. This has
20 come out of the Livestock Committee, several different
21 drafts, and now we're getting input from the audience
22 and trying to change it to numbers, I think we need to
23 stick to the recommendation that came out of the
24 Livestock Committee and decide whether we want to have a
25 posting for public comment and input.

1 CHAIRPERSON RIDDLE: Um-hum. Well said, and I
2 think we've had a lively debate.

3 MR. ACEVEDO: Thank you.

4 CHAIRPERSON RIDDLE: Thank you, Tony --

5 MR. KARREMAN: Thank you very much.

6 CHAIRPERSON RIDDLE: -- for your input. I've
7 heard no amendments proposed to the draft coming out of
8 the committee. The thing I've heard repeatedly stated
9 from Board members is the need for this to be posted for
10 a round of public comment. So would you restate your
11 motion and make sure that the seconder is on board with
12 that?

13 MR. KARREMAN: Okay. I would move, then, that
14 this guidance document on livestock pasture requirements
15 go out for public comment and we take a vote on it the
16 next time we meet in the fall.

17 CHAIRPERSON RIDDLE: But did we --

18 MR. KARREMAN: And it comes out of the NOSB
19 for pasture -- for comment and we can reevaluate things
20 based on public comment at that time. I agree. The
21 only thing -- that's the only obvious clear thing to me
22 is that there's a lot of discussion, but I think we're
23 all on the same page, so to speak, but it needs to be
24 fleshed out a little better and I think we can do that.

25 MR. CARTER: At some point did you stop making

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1 the motion?

2 CHAIRPERSON RIDDLE: Yeah.

3 MR. KARREMAN: Was that right? I'm not used
4 to that. I'm sorry. Okay. All right, I'll make a
5 motion that we send this out for public comment.

6 CHAIRPERSON RIDDLE: Okay.

7 MS. OSTIGUY: And I believe I was the
8 seconder. That's fine with me.

9 CHAIRPERSON RIDDLE: Okay, so Hugh moves and
10 Nancy seconds that this draft, as presented by
11 committee, be posted for public comment. All right.
12 George, a closing comment here?

13 MR. SIEMON: No, it's open --

14 CHAIRPERSON RIDDLE: Well --

15 MR. SIEMON: Okay. I just opened up the NOP
16 guidance document and they've got level one, level two,
17 that their all available for public comment. So are we
18 saying it's not going to enter into the NOP and then
19 they look for guidance? It's pre-NOP guidance input
20 versus then we'll give it to them and we'll have post-
21 NOP guidance input?

22 CHAIRPERSON RIDDLE: That's --

23 MS. OSTIGUY: Yes.

24 MR. SIEMON: I sat through this meeting -- we
25 always -- and vote. We always change here because

1 that's what the input's for. And to go and get more
2 input, then we'll change it again, and then someone will
3 say, let's send it out again. This is a guidance
4 document. We've got 5,000 comments. You know, I need
5 to understand how it relates to NOP guidance -- my
6 question -- that we got a proposal from NOP.

7 CHAIRPERSON RIDDLE: Okay. And I saw Nancy
8 first, then Kevin, then Hugh.

9 MS. OSTIGUY: That's -- George, your comments
10 are applicable to almost anything that we do, but we
11 could go on forever with getting public comment and you
12 know, there is a point where we have to make a decision
13 and move forward. I think, because of the volume of
14 comments and the volume of comments during the meeting,
15 this is a situation where we should go back to committee
16 to take into account that the additional comments that
17 might come from our on-the-fly changes, all of this, no
18 matter when we make a decision, it can come back up for
19 public comment again.

20 CHAIRPERSON RIDDLE: Kevin?

21 MR. O'RELL: Yes. And, Nancy, just following
22 up on your comment, I mean, we have made some
23 significant changes, and the fact that now we're
24 starting the NRCS, that was never published for public
25 comment in the Livestock recommendation that went out.

1 And I think that it would be warranted to get public
2 input on the NRCS.

3 CHAIRPERSON RIDDLE: Hugh?

4 MR. KARREMAN: I think, when we came out with
5 the original guidance on January 26 and we voted in the
6 Livestock Committee, it was then posted two weeks later
7 by NOP, and I'm not sure what the procedures are, but I
8 have in my mind that there's a 30-day public comment
9 time in general for things. And --

10 CHAIRPERSON RIDDLE: Well, that's just a
11 guideline, yeah.

12 MR. KARREMAN: Right. So --

13 CHAIRPERSON RIDDLE: Normally, it would --
14 yeah.

15 MR. KARREMAN: I mean, we got like five or
16 seven thousand comments, basically, unanimously
17 supporting that document, okay? We have changed that
18 document now, I think, by adding NRCS stuff and whatnot,
19 and I think we really need to have fresh input. And
20 maybe we have five or seven thousand comments again
21 saying that's great, or we'll get even more farmers
22 adding into the conversation. But I think we've really
23 improved things, too, right now.

24 CHAIRPERSON RIDDLE: Again? That's okay.

25 MR. O'RELL: Well, yeah. And, Hugh, I agree

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1 with that, because the NRCS is something new to this and
2 I really think we need to get out there and get the
3 public input.

4 UNIDENTIFIED SPEAKER: I can't hear you.

5 CHAIRPERSON RIDDLE: Try again

6 MR. O'RELL: Try again? I don't remember what
7 I said.

8 MR. SIEMON: You agree with --

9 MR. O'RELL: Ditto. But there was another
10 point I was going to make. This is guidance -- a
11 guidance document. It doesn't have the force of law.
12 We did a rule change that we're putting through the
13 system that does have the force of law. So for a
14 guidance document that doesn't have the force of law,
15 and we've made significant changes to the recommendation
16 that was posted, I don't see why we don't go the route
17 of posting it for additional public comment.

18 MS. OSTIGUY: Um-hum.

19 CHAIRPERSON RIDDLE: Okay.

20 MS. OSTIGUY: Can we call the question?

21 CHAIRPERSON RIDDLE: We can, but I was going
22 to make a comment, so we won't.

23 MS. OSTIGUY: No, no, Rose is first, Rose is
24 first.

25 CHAIRPERSON RIDDLE: And Rose, too. So I

1 haven't recognized Rose, so Rose first, and then I will,
2 too.

3 MS. KOENIG: Can I ask the Livestock Committee
4 -- I've heard it twice saying that we proposed two
5 significant rule changes. Will there be a proposal from
6 the Livestock Committee to make any additional rule
7 changes that add specificity to the number -- it's
8 either 30 percent, as the public comment said, or are
9 you saying that that is only going to be embedded into
10 this guidance document?

11 CHAIRPERSON RIDDLE: Nancy?

12 MS. OSTIGUY: It depends on public comment.
13 If what we're hearing, including from the Board, is that
14 it ought to be a rule change, then that would be what
15 comes back as a recommendation to the Board, is a rule
16 change. If the general gist is we're okay with the
17 guidance document, we'll stay with that. I have no
18 preconceived decision at all.

19 MS. KOENIG: But when we send these two
20 definitive rule changes to NOP, so long as they are
21 willing and makes sense to their lawyers to have two
22 separate documents with rule changes that impact the
23 same area of the regulation, I mean, is that the
24 effective way of doing it, or does it not matter to you
25 how many -- I mean, I may have misunderstood. I mean,

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1 I've been here for five years and it's very rare that
2 you've ever even agreed to do a rule change and I want
3 to get it right, because I'd love to see it in the term
4 I've been on the Board. So I mean, the fact that you
5 said you do it once, the idea of doing it twice, because
6 it takes time and I know it takes a long time, so --

7 MR. MATHEWS: It takes a long time, it takes a
8 lot of work, and it's hard to get things accomplished,
9 especially when staff is busy doing other things. But I
10 don't care how many rule changes we have to do. We can
11 do them one docket at a time. So we can move forward
12 with what you've already proposed, and then if you come
13 back later and want to change this guidance document
14 into some more rulemaking, we can do that as well. So
15 it's -- you just make your recommendations and we'll do
16 our best to get something done. If you look at us
17 historically, we may still be working on the first
18 proposal by the time you come out with something at the
19 next Board meeting.

20 CHAIRPERSON RIDDLE: Dave, and then I'd like
21 to move to a vote.

22 MR. CARTER: No. I was just going to say -- I
23 mean, we do pass materials at various -- you know, each
24 meeting and they got -- you know, they get rolled into
25 one, you know, thing. And I think that the more we can

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1 get stuff to them now, and if we come up with something
2 at a different meeting, they will still have this, I'm
3 sure, under drafting at that point. So let's go ahead
4 and vote on it.

5 CHAIRPERSON RIDDLE: Okay, well --

6 MR. SIEMON: I just think it's important to
7 remember, we were asked by the NOP to come up with a
8 guidance document on pasture. That's what we set out to
9 do. I think we've got a good document here. That's
10 what they asked -- in the midst of that, we decided to
11 go for a rule change. We didn't feel it was fair to go
12 all the way to the rule change at the last minute. The
13 ones we put forward help a lot, but to go all the way
14 and you get all of this down was where we didn't feel we
15 could do that so quick. We feel very good about our
16 guidance document. I feel like we need to send
17 direction to the Department of what our intent is, and I
18 think this document represents that.

19 CHAIRPERSON RIDDLE: Right. And I agree with
20 you, George. I think we've put a tremendous amount of
21 work, and we've had five Livestock Committee meetings
22 since we've been here, and we've received massive
23 amounts of comment, and yeah. So I -- I will be voting
24 no on this motion, because then we can reconsider it as
25 guidance to NOP. Either way, it will be posted. And

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1 so, Hugh, if you agree with George, you would vote now
2 and then it can come back for a second vote.

3 MR. MATHEWS: Jim?

4 CHAIRPERSON RIDDLE: Yeah.

5 MR. MATHEWS: To just lighten it up a little
6 bit --

7 CHAIRPERSON RIDDLE: Sorry.

8 MR. MATHEWS: -- just because you vote no
9 doesn't mean it has to be a new motion. There might
10 be --

11 CHAIRPERSON RIDDLE: Well, it doesn't mean
12 it's dead. If it's defeated, it doesn't mean it's dead,
13 is what I'm saying.

14 UNIDENTIFIED SPEAKER: You're supposed to vote
15 last, not first.

16 CHAIRPERSON RIDDLE: Well, yeah. I'm just --

17 UNIDENTIFIED SPEAKER: You just voted.

18 CHAIRPERSON RIDDLE: -- that -- no, I haven't
19 voted. I said, no, I'm going to -- just to let you know
20 that it doesn't mean it's dead if this motion is
21 defeated.

22 MS. OSTIGUY: I call the question.

23 CHAIRPERSON RIDDLE: So yeah, Hugh is gone and
24 we start with Bea.

25 MR. SIEMON: Okay.

1 CHAIRPERSON RIDDLE: So the motion is to post
2 for comment only, it would not be to provide guidance to
3 NOP, this motion as it's presented.

4 MS. JAMES: So it would absolutely be
5 considered yes?

6 CHAIRPERSON RIDDLE: A yes?

7 MS. JAMES: Yes.

8 CHAIRPERSON RIDDLE: George?

9 MR. SIEMON: Is this on just to post for
10 comment, right? No.

11 CHAIRPERSON RIDDLE: As opposed to --

12 MR. SIEMON: No.

13 CHAIRPERSON RIDDLE: -- guidance to NOP.
14 That'd be no. Rose?

15 MS. KOENIG: Can you restate the motion? I
16 don't quite understand what it is.

17 CHAIRPERSON RIDDLE: Well, the -- do you have
18 it there? The motion is to post as guidance document
19 for public comment.

20 MS. KOENIG: Yes.

21 CHAIRPERSON RIDDLE: Goldie?

22 MS. CAUGHLAN: Yes.

23 CHAIRPERSON RIDDLE: Kevin?

24 MR. O'RELL: Yes.

25 CHAIRPERSON RIDDLE: Andrea?

1 MS. CAROE: Yes.

2 CHAIRPERSON RIDDLE: Rigo?

3 MR. DELGADO: Yes.

4 CHAIRPERSON RIDDLE: Hugh?

5 MR. KARREMAN: Yes.

6 CHAIRPERSON RIDDLE: Julie?

7 MS. WEISMAN: Yes.

8 CHAIRPERSON RIDDLE: Gerald?

9 MR. DAVIS: Yes.

10 CHAIRPERSON RIDDLE: Mike?

11 MR. LACY: No.

12 CHAIRPERSON RIDDLE: Nancy?

13 MS. OSTIGUY: Yes.

14 CHAIRPERSON RIDDLE: Dave?

15 MR. CARTER: Yes.

16 CHAIRPERSON RIDDLE: And the Chair votes no.

17 We have -- that'd be 11 yes and 3 no, 0 abstentions, so
18 it passes and will be posted for public comment, and we
19 don't have to vote again. All right, good work.

20 MR. SIEMON: That's it for the Livestock
21 report.

22 CHAIRPERSON RIDDLE: Okay. It's 2:30. Oh,
23 gosh. Are you ready? Do you have a half-hour type item
24 that we can deal with before a break? I mean, we got --

25 MS. KOENIG: Yeah, I think so.

1 CHAIRPERSON RIDDLE: Well, I hate to let
2 people out -- don't exist. If you --

3 MS. KOENIG: Yeah, I think what we could do is
4 pick out one of things that we had already gone over.

5 CHAIRPERSON RIDDLE: Yeah, yeah, yeah. So if
6 you -- and if there's something that we aren't going to
7 take action, let's just make our reports pretty brief,
8 if possible.

9 MS. KOENIG: So do you want --

10 CHAIRPERSON RIDDLE: Well, you have everything
11 that's in the meeting book. So, Rose --

12 MS. KOENIG: Arthur, what I'm going to do is
13 -- Jim wanted a short -- one of our short items, and I
14 think the last one, the materials review procedures
15 would be the item that we kind of discussed that prior
16 to lunch.

17 MR. NEAL: The materials review procedure?

18 MS. KOENIG: Yeah.

19 MR. NEAL: This last --

20 CHAIRPERSON RIDDLE: Okay. So that's in tab
21 eight, materials review, right?

22 MS. KOENIG: Yeah.

23 MS. OSTIGUY: Jim? Over here. A point of
24 information.

25 CHAIRPERSON RIDDLE: Nancy.

1 MS. OSTIGUY: I wanted to thank the NOP for
2 copying a whole bunch of stuff for us on the prescribed
3 grazing and stuff from the NRCS. It's very useful.
4 Thank you.

5 CHAIRPERSON RIDDLE: Yeah. And I'll just
6 point, there are some extra copies up here. There is a
7 copy of the National 528, the prescribed grazing
8 standard, and then some other background information.
9 So when we take a break, if you'd like one of those,
10 there are extra copies, so don't let them go to waste.
11 So members of the public. Everyone on the Board got
12 them already. So okay. Rose, are you ready?

13 MS. KOENIG: Okay, it's over here. Let's go
14 to that. And the reason I brought this one over is
15 because I thought it would be fast. It's actually the
16 information I went over prior to lunch, with the
17 different phases. And Kim had asked, had the Materials
18 Committee seen this -- this one? The recommendation
19 that NOP -- well, this is what -- NOP had given us a
20 draft and asked for comments on the procedures.

21 MS. CAUGHLAN: Which one? Is this --

22 MS. KOENIG: Under tab eight, the materials
23 review.

24 MS. CAUGHLAN: Oh, okay.

25 [Simultaneous comments]

1 CHAIRPERSON RIDDLE: Yeah, yeah.

2 MS. KOENIG: And Jim and myself had made some
3 changes to the document, and this is what was presented.
4 It is the working -- the working procedure and it would
5 be recommended to add to the Board policy manual to
6 update what exists in terms of the procedures. One of
7 the questions was, we had 14 or 21 -- that one sheet
8 that said ask Rose. Well, that is based kind of on our
9 last process. So we would incorporate a sheet, timing a
10 little bit more accurately, based on this document. And
11 then, again, to me the only substantial -- it's a change
12 in the sense that it's in OFPA, but one area that I said
13 I think that needs some, perhaps, discussion -- I'm not
14 sure if we can decide upon it today, but if we could
15 agree to embody the concept, I guess, because the
16 concept is in this document without the details, and I
17 think the Materials Committee would have to work on the
18 details. It's on page -- it's on the third page, under
19 phase five.

20 And again, this is when -- after we sent the
21 petitions out to the -- to the TAP contractor. Well, I
22 always say the technical contractor, the person who
23 gives us our information back. And we get that
24 information back and it comes to committee. If you go
25 down to the bottom of the page it says convene a

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1 mutually convenient time to review, and then the
2 committee may convene a technical advisory panel, by
3 electronic mail or a conference call, to provide
4 scientific evaluation of the petitioned substance, as
5 provided by OFPA 6518(k)(3).

6 So that to me is -- again, it's something that
7 is -- it was in the Organic Foods Production Act, under
8 what our mandate is in terms of the review of materials.
9 The only thing that isn't specific and won't get anymore
10 specific in this document, I think is a working -- the
11 next working plan document for the Materials Committee,
12 as to how we would procedural go about organizing.

13 MS. OSTIGUY: I have a point of order. Are we
14 supposed to have motion first?

15 CHAIRPERSON RIDDLE: That's what I was just
16 going to ask, if you would like to --

17 MS. KOENIG: Oh, I'm sorry.

18 CHAIRPERSON RIDDLE: -- move this as an
19 amendment to the Board policy manual. Is that how -- is
20 that the --

21 MS. KOENIG: Yes.

22 MS. OSTIGUY: Second.

23 CHAIRPERSON RIDDLE: Thanks, Nancy.

24 MS. KOENIG: Sorry about that.

25 CHAIRPERSON RIDDLE: No, that's fine.

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1 MS. KOENIG: I'm trying to get through in 30
2 minutes.

3 CHAIRPERSON RIDDLE: Um-hum. Okay.
4 Discussion? We're all like --

5 MS. OSTIGUY: Everybody's exhausted. Call the
6 question. There's no discussion.

7 MR. DELGADO: Can you restate the --

8 CHAIRPERSON RIDDLE: Well, the -- yeah, the
9 motion is to adopt the materials review process as an
10 amendment to the Board policy manual to update that
11 section of the Board policy manual. Yeah, and Kim has a
12 point here.

13 MS. DIETZ: Just following up on that again.
14 If we could just ensure that that's in the Materials
15 Committee work plan to develop that guidance document,
16 that way before you review materials again, I know that
17 you have something.

18 CHAIRPERSON RIDDLE: I'm sorry. Can you be
19 clear exactly which --

20 MS. DIETZ: Under the technical reviewers, if
21 you could have some guidance document before you
22 actually start using this policy, so that we understand
23 what that process is. And put it on the committee's
24 work plan.

25 CHAIRPERSON RIDDLE: Yeah. And that was a
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1 point I think is critical that you had brought earlier,
2 that -- I mean, these procedures already are being
3 followed, but the missing link is this new
4 responsibility to the Board, because it used to be the
5 contractor convening the panels, but now that's not part
6 of their statement of work and we don't have procedures
7 yet for the selection of those potential panel members,
8 how they would function. So the Materials Committee,
9 we'll put that on your work plan for the future.

10 MS. CAROE: Jim?

11 CHAIRPERSON RIDDLE: Yeah, Andrea.

12 MS. CAROE: Can I ask which section this is
13 going to replace and where this is going to be placed in
14 the policy manual? It's on page 22?

15 UNIDENTIFIED SPEAKER: You should go to the
16 policy manual.

17 MS. CAROE: I think it's page 22, but I just
18 want to make sure.

19 CHAIRPERSON RIDDLE: That's -- on page 22,
20 Rose, is where the current materials review process is,
21 where it's day one through fourteen, blah, blah, blah.

22 MS. KOENIG: Yeah, it would -- the petition
23 information is renewed, update petition -- it would go
24 in where -- we still may have an abbreviated format on
25 22, you know, that maybe kind of takes all that

1 information and summarizes it, but pretty much there.

2 So it would be --

3 MS. OSTIGUY: In addition to --

4 MS. KOENIG: No, it would -- this is old.

5 This was based on the old materials review process,

6 because we didn't have a -- kind of a formal, written

7 procedural document between NOP and the National Organic

8 Standards Board. So this was presented and this would

9 replace that document.

10 CHAIRPERSON RIDDLE: Kevin?

11 MR. O'RELL: Rose, just a question in terms of

12 the time line, then. On page 22, we have the procedures

13 and we have the time line, and this new document has no

14 time line associated with it. Is that something that's

15 going to be integrated or --

16 MS. KOENIG: Well, I think it's going to be

17 integrated, but one of the issues in the draft, because

18 of kind of this changeover, it's just taken a lot longer

19 than it ever has with -- Arthur probably could, you

20 know --

21 CHAIRPERSON RIDDLE: Arthur?

22 MR. NEAL: Right not there's no associated

23 time line, because all of the materials that we're

24 getting have too many questions surrounding them.

25 That's why the process has slowed down so much, because

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34 North George St., York, PA 17401 - (717) 854-0077

1 we have to take time to look at them a lot closer. And
2 the materials that we have on the table for this
3 meeting, it took one whole year for it just to get to
4 this meeting because there are too many questions. So
5 for right now there is not time line associated with it,
6 just because of the whole back and forth going on, and
7 then we brought on new contractors, where now they're
8 trying to find out how long it will take them to
9 actually complete a TAP. So once they've gotten into a
10 groove and we've got a set of our reports back from them
11 to you, then we'll be able to hammer out the new time
12 line.

13 CHAIRPERSON RIDDLE: And, yeah, I'd just would
14 like to point out that in this draft from the committee,
15 put together by NOP, there are some time frames.
16 There's like 21 days for the Materials Committee and the
17 relevant, applicable other committees to respond to a
18 petition that's been circulated, and another place where
19 there's 21 days, and then there's 30 for drafts to be
20 posted. So there are some time frames, but not an
21 overall time line.

22 MS. JAMES: Jim?

23 CHAIRPERSON RIDDLE: Yeah, Bea.

24 MS. JAMES: So if we incorporated the time
25 line in there, it would be a guideline, but it's not

1 enforceable, right? Is that -- am I correct in stating
2 that?

3 CHAIRPERSON RIDDLE: It would be a guideline
4 that theoretically is enforceable, but has not been
5 enforced.

6 MS. JAMES: Okay.

7 CHAIRPERSON RIDDLE: Okay, any other comments?
8 Is everyone -- Kim?

9 MS. DIETZ: Sorry, guys.

10 CHAIRPERSON RIDDLE: Well, no problem.

11 MS. DIETZ: As the past Materials chair --

12 CHAIRPERSON RIDDLE: This is your last hurrah.
13 Make the most of it.

14 MS. DIETZ: Yeah. I feel it's really
15 important to have some kind of a time line so the public
16 understands the process of -- even if it's a very vague.
17 I'd be happy to volunteer because I'm good at those
18 little flow charts. To at least just take what we have
19 -- you know, once a petition is received, we don't know
20 the time between when the NOP receives it and when the
21 contractor gets it, but we do know a time frame from
22 once you guys receive a petition -- or a TAP back. And
23 I think, at the minimum, the public should have that
24 time line document so they know what they're expecting.
25 I know there was a comment a couple days ago about a

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1 petitioner that didn't get anything until two weeks
2 before this meeting, and I think we need to really be
3 careful with that and make sure the public gets what
4 they want and what they should be expecting. So --

5 CHAIRPERSON RIDDLE: Rose?

6 MS. KOENIG: And I think that, Kim, it ought
7 to be done. I just -- you know, in the past, I think
8 we've gotten in -- because it says here the minimum
9 flow, and maybe we can have a general statement, the
10 minimum time, and then only in the areas -- once we get
11 the TAP, we can control our time a little bit better.

12 CHAIRPERSON RIDDLE: Arthur.

13 MR. NEAL: Also, the time frame that Kim is
14 mentioning, those are covered. See, the idea is to have
15 this document posted on the website for all petitioners,
16 but we didn't put it on the website just yet, until it
17 comes out of the Board as being acceptable. But once
18 all the petitioners have this document, they'll be aware
19 of what to expect once they petition a substance.

20 CHAIRPERSON RIDDLE: Okay. Seeing no further
21 debate, we will vote on the materials review procedures
22 as an amendment to the Board policy manual. And we
23 begin -- we begin with George.

24 MR. SIEMON: Yes.

25 CHAIRPERSON RIDDLE: Rose?

1 MS. KOENIG: Yes.

2 CHAIRPERSON RIDDLE: Goldie?

3 MS. CAUGHLAN: Yes.

4 CHAIRPERSON RIDDLE: Kevin?

5 MR. O'RELL: Yes.

6 CHAIRPERSON RIDDLE: Andrea?

7 MS. CAROE: Yes.

8 CHAIRPERSON RIDDLE: Rigo?

9 MR. DELGADO: Yes.

10 CHAIRPERSON RIDDLE: Hugh?

11 MR. CARTER: Absent.

12 CHAIRPERSON RIDDLE: Absent. Julie?

13 MS. WEISMAN: Yes.

14 CHAIRPERSON RIDDLE: Gerald?

15 MR. DAVIS: Yes.

16 CHAIRPERSON RIDDLE: Mike?

17 MR. LACY: Yes.

18 CHAIRPERSON RIDDLE: Nancy?

19 MS. OSTIGUY: Yes.

20 CHAIRPERSON RIDDLE: Dave?

21 MR. CARTER: Yes.

22 CHAIRPERSON RIDDLE: Bea?

23 MS. JAMES: Yes.

24 CHAIRPERSON RIDDLE: The Chair votes yes, so

25 we have 13 yes, 0 no, 1 absent. Okay, it's a quarter

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34 North George St., York, PA 17401 - (717) 854-0077

1 until 3:00. I think it's a good time for a break. We
2 accomplished something else, so that's good, and then
3 we'll come back for more of the Materials Committee,
4 okay?

5 MS. KOENIG: That's fine.

6 CHAIRPERSON RIDDLE: All right. So --

7 MR. DELGADO: How long is the break?

8 CHAIRPERSON RIDDLE: Yeah, 15 minutes. At
9 3:00 p.m. is when come back.

10 ***

11 [Off the Record]

12 [On the Record]

13 ***

14 CHAIRPERSON RIDDLE: All right, we -- all
15 right, we've got a quorum of the Board here. We'd like
16 to resume business. We still have both the Materials
17 and Crops Committees yet this afternoon. And we go back
18 to Rose and your next item.

19 MS. KOENIG: Okay, the next item is -- is
20 actually --

21 CHAIRPERSON RIDDLE: And could people, you
22 know, close the door and quiet down in the audience?
23 Thanks.

24 MS. KOENIG: The next item I want to deal with
25 is the NOSB internal working document, draft three, and

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1 I would like to make a motion to accept -- to accept
2 this as our internal working document for Sunset review.

3 MS. OSTIGUY: Second.

4 CHAIRPERSON RIDDLE: Okay, there's a motion by
5 Rose, second by Nancy, for the Board to accept the
6 Sunset review as the internal working procedures of the
7 Board. Discussion? Rose?

8 MS. KOENIG: I don't know how in detail people
9 want me to go through on this document. I'll just go
10 briefly over it and then if folks have specifics, then
11 we can get into it. But basically, the document
12 outlines both the NOP's responsibility and our
13 responsibility in terms of the Sunset procedures. And
14 additionally, there's an addendum -- and I think
15 actually there's too many sheets copied, but there's
16 numerous schematics that Kim provided to us, that
17 basically takes the information and kind of puts it in a
18 flow chart with some numerical that I use there in terms
19 of times, so that people kind of understand how it all
20 it would affect -- it starts with a federal notice to
21 the public on the Sunset of the National List, those
22 items that were posted on -- in 2002, October 21, 2002.
23 And once that notice is posted -- it hasn't been posted
24 yet -- then the federal starts the clock. And we will
25 being comment in, and it could be the next day, it could

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1 be any time within -- and even a little after the
2 comment period.

3 And we have talked with the staff to indicate,
4 you know, how they were going to just get those comments
5 to us. But basically, there will be a database, and
6 because the comments may be just about a single
7 substance or it might have multiple -- about multiple
8 substances in different categories, maybe crops and
9 livestock, we decided to code the comments, have
10 columns, C for Crops, L for Livestock, and H for
11 Handling. And we hope that there's only going to be a
12 five-day period between the time -- if NOP gets them all
13 electronically, that they can post them right to the
14 database. And then it will be the responsibility of the
15 chair and the committee members to actually go to that
16 database and look for the C comments, if you're in
17 Crops, and begin the process of reviewing the comments.

18 Once there's a large number of comments
19 received -- and actually, the number is up to the
20 discretion of the chairs of the committees. They would
21 then start the beginning of conference calls. And then
22 the conference calls should be just about -- we always
23 say an hour and a half long. So just kind of schedule
24 them -- they'll have to be scheduled probably
25 periodically in that time period so that we have a

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1 chance to review all of the comments as they come in.

2 And we developed this kind of form that the
3 committees will be fill them out when they start doing
4 that review process in the committee. They would have
5 the name of the substance, number one, the National List
6 section, and annotation, if applicable, and then the
7 comment code number. In other words, we do have a code
8 scheme on -- you know, a comment come in. The first one
9 would be one with the date, just so that you can make
10 sure you're keeping up with the comment. And then the
11 status, what the comment says. Do they want it reviewed
12 or did they want it removed? And then number five, the
13 committees would provide a summary of the comment and
14 again, state the position provided by the commenters and
15 determine the relevancy to OFPA or the 205.600(b)
16 criteria. And then that information that does
17 specifically address the criteria should be noted, and
18 comments -- the committee should determine if the
19 comments provided data, references, or expertise to
20 justify the position expressed, and the committee also
21 must determine if additional information or verification
22 of the information provided is necessary. So that's in
23 the kind of the summary statement.

24 MR. SIEMON: I got to ask a dumb question.
25 I'm sorry.

1 MS. KOENIG: Okay.

2 MR. SIEMON: Back to kindergarten for me.

3 MS. KOENIG: Okay.

4 MR. SIEMON: This is for all the materials
5 that are going to be placed -- given notice that their
6 Sunset's coming up and we're looking for comments on all
7 the materials?

8 MS. KOENIG: Yes.

9 MR. SIEMON: Okay, at first I was reading it
10 and it says for one material.

11 MS. KOENIG: No, this is for the --

12 MR. SIEMON: So this is for all the
13 materials --

14 MS. KOENIG: This is for all those that were
15 listed October 21, 2002. Because what NOP will say --
16 well, they're going to list -- the Federal Register
17 notice will say all -- and I don't know if you
18 specifically list every single one. Do you, in the
19 notice, because I haven't seen the notice? But every
20 single one that's up for Sunset will be on that Register
21 notice.

22 MR. SIEMON: Thank you. Sorry.

23 MS. KOENIG: Okay. So then six -- and this is
24 an area -- I think, again, all the areas that are might
25 be worth discussing in six. Six: the committees will

1 recommend to the full Board a determination on each
2 substance for review, removal, deferral, to seek
3 specific -- or deferral, to seek specific technical
4 information from the TAP contractors. So we are
5 envisioning that there may be some that we may need to
6 go through and get information from TAP contractors.
7 TAP contractors shall be used to verify the information
8 provided by the commenters, research or seek additional
9 information requested by the committee. The request to
10 a TAP contractor for more information needs to be
11 detail-specific and based on the OFPA criteria. If a
12 committee determines that they need additional
13 information from the contractor, their written request
14 will be immediately forwarded to the contractor prior to
15 vote to the full Board. And that's something that I
16 think if there's any discussion item here, that might be
17 one. But that -- the reason why we put that in was
18 because we felt that the committees needed an expedited
19 process because we are in kind of a time crunch. So the
20 committees make that determination. At that point there
21 is ability for the Board to take a full vote and seek
22 additional information, but it does give authority to
23 committees to make that determination at that point,
24 also.

25 So basically, some -- you know, we do envision
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1 that some will have enough information to make
2 decisions, some may have to go out for technical, you
3 know, expertise in gathering more information. And then
4 basically, the -- the committee would then make the
5 recommendations at -- we think, two -- a minimum of two
6 and a maximum of four Board meetings to review all the
7 materials that will be reviewed by 2007. So when we
8 come to the final vote, each committee will provide the
9 recommendations to the Board on each substance 30 days
10 prior to the full Board meeting. So it will be very
11 similar to the -- when somebody's done a review of a
12 petitioned substance. And the recommendation will be
13 posted on the website and open to public comment.

14 The comments received at this point from the
15 public should address the committee's recommendation.
16 The Board will discuss each substance and recommendation
17 from the committee and vote on renewal, removal, or
18 deferral of the substance. Deferral of substances would
19 be based on insufficient information to make a decision
20 by the Board and would require a request for additional
21 information from the TAP contractor. Again, a request
22 would be written by the appropriate committees and
23 address OFPA criteria. Substances that are deferred
24 would be referred back to committee and placed on the
25 agenda for the next upcoming meeting. And then -- so

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1 that stage is NOP rulemaking.

2 After each NOSB meeting, the NOP would begin
3 rulemaking on those substances that were voted for
4 renewal. The Materials Committee anticipates at least
5 two dockets of materials for renewal, based on the
6 assumption that deferred materials may take some
7 additional time for review and a full-Board vote.

8 CHAIRPERSON RIDDLE: You know, first, Rose,
9 I'd just like to thank you and the committee and Kim for
10 providing a really clear draft and with the flow charts.
11 I think it's quite understandable and something we can
12 work from. And I have a couple of questions.

13 MS. KOENIG: Okay.

14 CHAIRPERSON RIDDLE: If this is adopted, would
15 it be your intent that this also go in the Board policy
16 manual, because it's not the only time -- you know, and
17 Sunset will continue, so --

18 MS. KOENIG: Yeah, but -- correct. I think it
19 is very appropriate to put it under -- with all the
20 other materials' information and such. We just want you
21 to realize that it's our internal working document and
22 it's the first stab. You know, we may start working
23 with this procedure and find out that it doesn't work.

24 CHAIRPERSON RIDDLE: Oh, it's -- yeah.

25 MS. KOENIG: It's a living and breathing

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1 document.

2 CHAIRPERSON RIDDLE: Uh-huh. And then the
3 other question is, currently, some of the committees are
4 already identifying substances for early reviews. How
5 does that relate to this?

6 MS. KOENIG: Well -- and that was a question I
7 know that Andrea had. And you know, we've got some
8 public comment of -- that came in for committees. I
9 don't -- I think we really - to be honest, we just
10 assumed that committees would determine, for various
11 reasons, that certain things might take a priority,
12 based on prior TAPs or information from the public. So
13 I'm not sure if we need a procedure for how you would do
14 that. I think that it could be a loose structure. But
15 if a committee determines that, it would go right to a
16 TAP. They would vote on that, you know, the committee
17 would have to vote that it needs more technical
18 information.

19 CHAIRPERSON RIDDLE: Um-hum. Andrea?

20 MS. CAROE: This document really satisfies my
21 concern, and my concern was that the committee had some
22 arbitrary judgment here. But actually, all materials
23 will have a judgment -- a recommendation from that
24 committee. So that does address that question. The one
25 thing that I'd like to ask you, Rose, is, in many cases,

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1 as we're doing -- reviewing materials and recommending
2 them for inclusion on the National List, we have gone
3 back to the petitioner to ask for some more information,
4 and in this case, for a material that's been on the list
5 for five years and may not have been fully petitioned,
6 you know, we have some materials out there --

7 MS. KOENIG: Right.

8 MS. CAROE: -- that -- how are we going to get
9 that kind of information? I know we can get certain
10 information from the TAP reviewer, but we have kind of
11 lost a link, perhaps, with some of the petitioners, and
12 do you foresee --

13 MS. KOENIG: Well --

14 MS. CAROE: -- that there's any way that we're
15 going to be able to get that information?

16 MS. KOENIG: Well, the petitioner's
17 information will be provided within their comment, and
18 if you remember, the original Sunset document pretty
19 specifically outlined what information can and has to be
20 submitted. If you remember -- and I don't have -- it
21 was the one we passed last time, that said what needs to
22 be in a Sunset, you know, what kind of information and
23 alternatives and data and stuff that is acceptable, and
24 it's based on the OFPA criteria. And that's why in that
25 the committees really determine if that data has been

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1 provided. Now, there would be a way if their e-mail or
2 letter -- committees, I guess, if appropriate and if
3 necessary to perhaps have NOP contact those commenters.
4 But we really didn't consider that.

5 CHAIRPERSON RIDDLE: Nancy, then Kim, then
6 George.

7 MS. OSTIGUY: Andrea, what -- are you asking
8 about the original petition?

9 MS. CAROE: Um-hum.

10 MS. OSTIGUY: You're right, we do -- that link
11 is broken. Now, I'm sure we could under, you know,
12 circumstances, if necessary, see if that petitioner
13 still exists.

14 MS. KOENIG: We can access the archives. I
15 mean --

16 MS. OSTIGUY: Right.

17 MS. KOENIG: -- and I'll be honest right now,
18 the last, you know, six or so years there were good
19 TAPs, but when start accessing archives from the early
20 '90s, they're just --

21 MS. OSTIGUY: We're not talking about TAPs,
22 we're talking about the original petitioner, and we may
23 or may not have --

24 MS. KOENIG: Some of those were just --

25 MS. OSTIGUY: -- some of that information.

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1 MS. KOENIG: -- early on in the industry
2 that --

3 CHAIRPERSON RIDDLE: Yeah.

4 MS. KOENIG: -- came up and said there was
5 no --

6 MS. OSTIGUY: Right.

7 MS. KOENIG: -- petition, per se.

8 CHAIRPERSON RIDDLE: Kim?

9 MS. DIETZ: The way I envision, probably, this
10 happening is, at least those initial materials that we
11 deemed that you need to review, you can start getting
12 going on those by requesting the original, not the TAP,
13 but the actual decision by the Board. And again, those
14 are all archive materials. And then you're going to get
15 public comment. I mean, even though you're going to
16 start this process, you're really not going to be able
17 to do much until the end of that 60-day public comment
18 period. At that time, you know, you're going to have a
19 lot of shuffling and organizing and looking at -- and
20 perhaps those commenters can help you determine, you
21 know, the questions that you've got or further them.
22 The other thing is, we keep talking about all the
23 materials on the National List and it's just those that
24 were on the list when the act was first implemented.
25 So --

1 CHAIRPERSON RIDDLE: Right. Go ahead.

2 UNIDENTIFIED SPEAKER: What was the count? We
3 have the count.

4 MS. DIETZ: It's about 200 materials.

5 CHAIRPERSON RIDDLE: That's all.

6 MS. DIETZ: Just 200.

7 CHAIRPERSON RIDDLE: George?

8 MR. SIEMON: Well, I'm a little confused, I'm
9 sorry. I heard that they're going to get comments. I
10 heard that. Then I also heard --

11 MS. DIETZ: Maybe you should do the flow chart
12 and help explain to people --

13 MR. SIEMON: Well, I tried to look through
14 that, but I also heard -- these people -- we're going to
15 put the list on the web, people are going to make
16 comments whether they should be reviewed or not, or are
17 they -- they're not going to petition that they should
18 go off or not? The public will just be able to make
19 comments is what I'm reading here.

20 CHAIRPERSON RIDDLE: Rose, would you respond?

21 MS. KOENIG: What is envisioned is that people
22 have to comment. If they want the material on, you
23 know, the way that the Sunset provision works, if they
24 say yea, it needs to be kept on, but they still -- you
25 have to have comments to keep something on, okay? If

1 they say it needs to be kept on, then that -- there's an
2 assumption in that Sunset document that it still is at
3 the same stage it was when it was initially voted.

4 MR. SIEMON: If someone writes a comment that
5 I still want this material --

6 MS. KOENIG: You still need -- you know, a
7 vitamin something --

8 MR. SIEMON: Then -- okay, we consider that as
9 our process.

10 MS. KOENIG: Yeah. If they say we don't need
11 vitamin something in livestock, they have to provide
12 information showing why it's not needed anymore. What
13 has changed since the last technical review?

14 MR. SIEMON: So a negative comment is the same
15 thing as taking on a responsibility to be petitioning
16 that product to come off?

17 MS. KOENIG: To provide the specific
18 information, and that information will be detailed in
19 the Federal Register, but it's going to be based on the
20 document that we voted on at the last meeting.

21 MR. SIEMON: And I wish I had that with me,
22 because there's been quite a discussion I've heard about
23 this. So -- so I don't have that criteria with me.
24 It's harder to get a material off because you've got to
25 take into effect -- what I'm hearing is the economic

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1 effect of this, there is an additional criteria.

2 MS. KOENIG: Well then, Arthur, correct me if
3 I'm wrong. The justification that NOP gave us for
4 including economic data was because it's assumed that
5 the industry's operating with that substance, so it goes
6 off. It's considered an action of economic impact and
7 that's why the economic impact data is required. Is
8 that correct?

9 MR. NEAL: For the record, Arthur Neal. And
10 what we said was industry impact, what would be the
11 industry impact, because the industry has grown
12 accustomed to using this. If someone wants to remove
13 it, what's the eventual impact of removing a substance,
14 now that you've got farmers using it for well over five
15 years?

16 MR. SIEMON: So -- and I think now this makes
17 sense. But under the front page it says, NOSB's
18 responsibility. It says, once a new substance is
19 posted. First, I thought that should be comment, but
20 now I think it makes sense that it's substance.

21 MS. CAUGHLAN: And if there is no comment, if
22 nobody speaks --

23 MS. KOENIG: No. Then it goes away.

24 MR. SIEMON: I got it.

25 MR. NEAL: That doesn't take away the Board's

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1 ability to still renew it, because you have to remember,
2 it was approved for inclusion on a list by the Board,
3 and it had gone through the public process to also allow
4 its use in organic production. So say for instance, if
5 you've got 150, 200 substances on it, and if you're
6 expecting somebody to comment on each individual
7 substance -- let's say they miss one. It doesn't mean
8 that they don't want it. Or if they just make broad,
9 sweeping comments that we want all of these substances
10 renewed on the National List, you have to be able to
11 take that into consideration, because the Board still
12 has the authority to renew it, even if somebody not
13 specifically comment to renew it.

14 MS. KOENIG: Right. I mean, we have to take
15 action. We have to take action. But the way that was
16 explained to us by -- during the first session was that
17 all things have to be commented on, that no comment
18 should be interpreted as no interest, that the industry
19 doesn't use it.

20 MS. CAUGHLAN: Well, now you're saying
21 something different, Arthur.

22 MR. NEAL: Repeat that for me again.

23 MS. KOENIG: When it was first presented, that
24 proposal -- because don't forget, we had a proposal and
25 then you had a proposal and then we tried to mesh kind

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1 of our ideas into the final document that's now there.
2 But I specifically remember -- and we can go back to the
3 record, because it was one of those things that I
4 actually told folks about, make sure you understand
5 this, that if somebody needed something -- you said
6 Sunset is Sunset. If there are no comments, the act of
7 Sunset means it's gone. But you're saying we need
8 comments that say it needs to stay on and we need
9 comments if people need -- want it to be looked at for
10 removal. But no comment means it's gone --

11 MS. CAUGHLAN: By default it's gone.

12 MS. KOENIG: -- by default.

13 MS. CAUGHLAN: That's what we were told.

14 That's been our --

15 MR. NEAL: Okay, I am corrected.

16 CHAIRPERSON RIDDLE: Rigo, hold it. Go ahead.

17 Andrea's patient.

18 MS. CAROE: Maybe.

19 CHAIRPERSON RIDDLE: Isn't she?

20 MS. KOENIG: I guess she is now.

21 MR. DELGADO: Let's see. Just to make sure
22 that I understand, if there is a material X out there
23 that is -- that has no comments whatsoever, but someone
24 in the Board does see an importance of keeping that
25 material on the list, we can still go ahead and keep it

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1 up there, right?

2 CHAIRPERSON RIDDLE: Well, can Board members
3 submit comments if something is still needed?

4 MR. O'RELL: You have to submit a public --
5 you have to submit a comment.

6 CHAIRPERSON RIDDLE: As an individual?

7 MR. O'RELL: As an individual.

8 MR. NEAL: Well, see, that's what I'm saying.

9 MS. KOENIG: The thing is, it would be
10 conflict.

11 CHAIRPERSON RIDDLE: Uh-huh.

12 MS. KOENIG: It may be perceived as a conflict
13 -- I'm sorry.

14 MR. NEAL: But that's what I'm saying, is that
15 just if the public does not comment on a substance, you
16 as a board, you're still comprised of individuals. That
17 does not mean that you cannot submit a comment, you
18 know, asking for the removal of a substance and still
19 acting on that substance.

20 CHAIRPERSON RIDDLE: Um-hum. The Board, at
21 that time, would need to have procedure understanding
22 that if it was -- you know, the only person requesting
23 renewal was a Board member, if then that person would
24 need to step aside in that discussion.

25 MR. NEAL: What we'll do is we'll go back and

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1 verify that particular aspect of it --

2 CHAIRPERSON RIDDLE: Yeah.

3 MR. NEAL: -- the procedure.

4 MS. CAUGHLAN: Of Sunset.

5 MR. NEAL: I don't anticipate that happening.

6 CHAIRPERSON RIDDLE: No, I don't, either. So
7 let's -- yeah, Andrea.

8 MS. CAROE: Let me get off the subject just
9 slightly, in that after these materials are recommended
10 for rulemaking to be reposted on the list, it will go
11 through, it's my understanding, the standard rulemaking
12 procedure it went through the first time it was put on
13 the list. So my question is -- first of all, tell me if
14 that's inaccurate, but my question is, in the best of
15 judgment of illustrious NOP staff, is there opportunity
16 for these things to be kicked back for legal issues that
17 were not originally identified?

18 MR. NEAL: Legal -- legal issues that were not
19 original identified -- clarify that for me.

20 MS. CAROE: We have a docket -- we have two
21 dockets that are being held up for consistency with
22 other regulations, legal aspects. The original list --
23 the original dockets didn't seem to have as many issues
24 as the recent documents -- dockets, since we became more
25 sophisticated. My question is, if we -- are they being

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1 looked at the same way as they make their clearance
2 through the Program, NOGC, as they were originally when
3 they were put on five, seven, eight years ago?

4 MR. NEAL: No, dockets that were putting
5 through NOGC now are looked at more closely than they
6 were in the past, because you've got to remember, we
7 didn't have the rule in the past. Now we've got a rule
8 that's subject to being challenged. So now, with
9 respect to Sunset, what NOP would do is try to project
10 the problem areas and drafting proposals. So we may
11 even have two rules in the pipeline that take into
12 consideration some options, you know, the what ifs. We
13 may be drafting two rules at the same time, the same
14 proposed rule, but containing different things, just in
15 case. We don't want to find ourselves in a situation
16 where we have to go back to the drawing board and start
17 from scratch and waste more time.

18 Say for instance, where Rose is talking about
19 two dockets, and you may not have -- let's say the Board
20 doesn't complete any of its work before the time line to
21 renew. Let's say NOP has a docket that has no
22 substances in it, and it also contains a docket with
23 substances in it. So that way -- let's say that the
24 Board doesn't make its time line and we have to say
25 okay, all of these substances come off the National

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1 List, we'll at least have that docket ready to go. If
2 the Board does complete its work and has select
3 substances that will not make it, the first publication,
4 all we have to do is check those out of the docket and
5 then move it forward. But the dockets would hopefully
6 be prepared prior to the Board's making a decision --
7 final decision.

8 CHAIRPERSON RIDDLE: And Andrea and then, I
9 think, back to --

10 MS. CAROE: Yeah. I don't think you
11 understand the question that I've asked and maybe I
12 wasn't very clear. My fear or point of anxiety here is
13 that materials that the industry has been allowed to use
14 and are on the National List and were put on the list
15 very early on, before the clearance was so complicated
16 or so thorough, to be more positive, that these
17 materials would be commented for keeping on the list,
18 that we will do our due diligence and recommend that
19 they are put on the list again, and that in the
20 clearance process we'll find out that they're
21 inconsistent with an FDA regulation or an EPA regulation
22 or the Food, Drug and Cosmetic Act or whatever, and
23 they're not going to be allowed to be put back on.

24 MR. NEAL: That I can't -- I can't project
25 right there. I mean, part of it is going to depend on

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1 public comment. A lot of that's going to depend on
2 public comment through the clearance process. For the
3 most part, we don't foresee a lot of problems with those
4 that are already contained on the list. However, as
5 we've already noted, there are some issues going on with
6 OFPA criteria that have to be taken into consideration.
7 That's why the process needs to go ahead and begin in
8 terms of committees identifying substances that need to
9 be reviewed so that we don't get to the rulemaking stage
10 and say, oops, we shouldn't have suggested that'll be
11 added back on. We have to look at these things during
12 the review process at committee.

13 CHAIRPERSON RIDDLE: Okay. I have one other
14 question that came up the other day, whenever that was,
15 and that is the annotations and what is in play as far
16 as changes to annotations during this Sunset process,
17 and I think we said we'd talk about that. I don't see
18 it reflected in the document here, and maybe it can't be
19 answered right now. But if there are, you know,
20 annotations that are technically incorrect, hopefully
21 those can be corrected in this process, but just would
22 like to know kind of the rules of the game and what can
23 happen with annotations in the review. And, Arthur, do
24 you have --

25 MR. NEAL: From what I heard yesterday -- I

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1 think that was yesterday.

2 UNIDENTIFIED SPEAKER: It was two days ago.

3 MR. NEAL: Two days ago?

4 CHAIRPERSON RIDDLE: Yeah, I think it was
5 Monday.

6 MR. NEAL: Yeah. And correct me if I'm wrong,
7 Jim. You stated that, you know, it would be allowed to
8 amend the annotation to reflect the original language
9 that the Board had recommended. If it the language in
10 the Final Rule was wrong technically, based on, you
11 know, a grammatical error, a comma's missing, something
12 like that, I can understand. But if you're talking
13 about the intent, the Board's intent was not adequately
14 captured in the annotation, we have to look at that
15 closely, because a lot of the annotations and issues
16 that were raised are addressed in the Final Rule. I
17 know one of the issues you brought to light was the
18 chlorine issue and that's -- just some discussion in the
19 Final Rule on that annotation. So go back to say let's
20 put the Board's original annotation on it, would be more
21 than a technical correction, that would be a change in
22 intent.

23 CHAIRPERSON RIDDLE: That's debatable, but --
24 Kim?

25 MS. DIETZ: I believe our previous discussions
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1 were that if there was a change to the annotation, that
2 we were recommending people petition to change that
3 annotation before the Sunset period. In other words, if
4 somebody knew an annotation was wrong right now in one
5 of those 200 materials, they should petition now to
6 change that annotation before this Board could make that
7 recommendation.

8 CHAIRPERSON RIDDLE: But certainly, kind of
9 the laser-pointed approach.

10 MS. DIETZ: Yeah. I mean, without doing a
11 full-blown TAP again, I'm not sure how you could really
12 justify changing an annotation on a material.

13 CHAIRPERSON RIDDLE: Um-hum. Rose?

14 MS. KOENIG: Go ahead.

15 CHAIRPERSON RIDDLE: Or Richard.

16 MR. MATHEWS: We concur.

17 CHAIRPERSON RIDDLE: Oh, thank you. Uh-huh.

18 MS. KOENIG: There's only one example that I
19 can think of is like aquatic -- I think it's aquatic
20 plant extracts and there's a separate hydrolysis or
21 something, and that has been confusing about what
22 hydrolysis means. So there are notes in the minutes
23 that explain what the intent was, and it's not changing,
24 it's clarifying what that means by adding a word. I
25 think you're saying that one of the intents, if it's for

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1 clarity, that it may or may not be acceptable, but if it
2 changes for use, then it's not up for change. Through
3 Sunset. It can only be changed through petition.

4 CHAIRPERSON RIDDLE: Um-hum. Okay, we have a
5 motion. There have been no amendments to it. And the
6 motion from the Materials Committee is to accept the
7 Sunset review process as our internal working
8 procedures, and then also for placement in the Board
9 policy manual, correct? Is that accurate?

10 MS. KOENIG: Accurate.

11 MR. SIEMON: Yeah.

12 CHAIRPERSON RIDDLE: Okay. And let me get me
13 my --

14 MR. SIEMON: Do you have a second?

15 MS. OSTIGUY: Yes.

16 CHAIRPERSON RIDDLE: There was a second.

17 MS. OSTIGUY: I did.

18 CHAIRPERSON RIDDLE: Uh-huh. It was moved by
19 Rose, seconded by Nancy, and Rose is the first vote.

20 MS. KOENIG: Yes.

21 CHAIRPERSON RIDDLE: Goldie?

22 MS. CAUGHLAN: Yes.

23 CHAIRPERSON RIDDLE: Kevin?

24 MR. O'RELL: Yes.

25 CHAIRPERSON RIDDLE: Andrea?

1 MS. CAROE: Yes.

2 CHAIRPERSON RIDDLE: Rigo?

3 MR. DELGADO: Yes.

4 CHAIRPERSON RIDDLE: Hugh?

5 MR. KARREMAN: Yes.

6 CHAIRPERSON RIDDLE: Julie?

7 MS. WEISMAN: Yes.

8 CHAIRPERSON RIDDLE: Gerald?

9 MR. DAVIS: Yes.

10 CHAIRPERSON RIDDLE: Mike?

11 MR. LACY: Yes.

12 CHAIRPERSON RIDDLE: Nancy?

13 MS. OSTIGUY: Yes.

14 CHAIRPERSON RIDDLE: Dave?

15 MR. CARTER: Yes.

16 CHAIRPERSON RIDDLE: Bea?

17 MS. JAMES: Yes.

18 CHAIRPERSON RIDDLE: George?

19 MR. SIEMON: Yes.

20 CHAIRPERSON RIDDLE: The Chair votes yes. All
21 right, we've got a Sunset policy. Thanks again. So
22 it's 14 yes, 0 no, 0 abstentions.

23 MS. KOENIG: Okay, the final tab is the syn,
24 that's s-y-n, versus nonsyn, s-y-n, in your book. And
25 this is -- this is a draft. It's a discussion item

1 only. We want to get input and discussion, but we're
2 not really even asking you to vote on the draft. We
3 just want you to discuss it, to give us some feedback,
4 so that we as a committee can come back, do some
5 changes, and then present it as, hopefully, a draft that
6 we're going to actually vote on at the next meeting. So
7 this won't have any impact, except we probably will,
8 again, as quickly as we can, make some modifications and
9 get it posted so that we can perhaps have a longer
10 comment period on the document.

11 CHAIRPERSON RIDDLE: Kim and then Andrea.

12 MS. DIETZ: I get my exercise. I like sitting
13 out here because I can get up and move every now and
14 then. I just want to thank the Materials Committee for
15 posting this a discussion document. We originally were
16 going to move it as a recommendation, but in light of
17 the Harvey appeal, I was extremely nervous of even
18 talking about synthetics, to be honest with you. My
19 main concern with this document is that, if you look to
20 page one of the draft, it talks about defining what a
21 chemical process is. And in the definition of
22 synthetic, even a heating is considered a chemical
23 process. And the worse thing we need to do right now is
24 not have any pasteurized juices or baked breads or
25 cooked chips or anything like that. So I think we need

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1 to be very, very careful with the definitions of
2 synthetic and nonsynthetic and make sure that we really
3 clarify what you mean by the definition of synthetic.
4 Jim, you looked perplexed.

5 CHAIRPERSON RIDDLE: Huh?

6 MS. DIETZ: You looked perplexed.

7 CHAIRPERSON RIDDLE: Yeah, I'm not finding it.

8 MR. SIEMON: I did not find it on page one. I
9 didn't see that on page one.

10 MS. OSTIGUY: It's on the very bottom,
11 chemical --

12 MS. DIETZ: If you --

13 MS. CAUGHLAN: The bottom of --

14 MS. WEISMAN: On the very bottom, chemical
15 reaction.

16 MS. OSTIGUY: -- chemical reactions shall --

17 MS. CAUGHLAN: Draft through the materials
18 process --

19 CHAIRPERSON RIDDLE: Yeah.

20 MS. CAUGHLAN: -- verification of --

21 MS. KOENIG: Is it -- Kim, is it the
22 formulation bolded that you're -- that there's an issue
23 with or is it --

24 MS. CAUGHLAN: The chemical reaction.

25 MS. KOENIG: -- the chemical reaction?

1 MS. CAUGHLAN: The chemical reaction.

2 MS. DIETZ: It's the chemical reaction. If
3 you -- on page one, any -- I'll just go through it,
4 because I have notes on mine. "Any substance, other
5 than those naturally occurring in a plant, animal, or
6 mineral, is considered synthetic if it is formulated or
7 manufactured by a chemical process." And then further
8 down under the extraction definition, you have -- the
9 third paragraph.

10 CHAIRPERSON RIDDLE: So first you read,
11 actually, the definition of synthetic, right?

12 MS. DIETZ: Correct, correct.

13 CHAIRPERSON RIDDLE: Yeah, and it's in the law
14 -- the rule. All right.

15 MS. DIETZ: Page one of the draft two, I just
16 read the third paragraph under the justification, which
17 is the definition of synthetic in the rule.

18 MS. KOENIG: Right, that's the one in the
19 rule.

20 MS. DIETZ: Right.

21 MS. KOENIG: So that's -- I wanted to state
22 that that's the same that's in rule.

23 MS. DIETZ: Correct, that is the definition in
24 the rule. And then the purpose of this paper -- the
25 purpose of this draft is to clarify, really, what is

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1 synthetic.

2 MS. KOENIG: What is chemical change.

3 MS. DIETZ: What is chemical change.

4 MS. KOENIG: Not synthetic.

5 MS. DIETZ: Correct, correct, what is chemical
6 change. Excuse me. And heating is considered a
7 chemical change in this paper.

8 MS. KOENIG: No, the chemical reaction.

9 MS. DIETZ: Right.

10 MS. KOENIG: And that's why I was asking you
11 which --

12 MR. SIEMON: Under extraction.

13 MS. DIETZ: If you looked under extractions --

14 MR. SIEMON: Heating, right there.

15 MS. DIETZ: -- it says, "Substances removed
16 from naturally occurring plants, animals, or mineral
17 sources can be extracted in any manner and with any
18 substance, material, physical process, i.e. centrifuge,
19 heating, chemical solvents, as long as the extraction
20 process does not chemically change the substance that is
21 being extracted."

22 MS. KOENIG: Right.

23 MS. DIETZ: Okay.

24 CHAIRPERSON RIDDLE: Right. So --

25 MS. DIETZ: If you turn the page now and we --

1 I'm trying to find out where we go -- and we look at
2 just the basic chemistry --

3 MS. KOENIG: Um-hum.

4 MS. DIETZ: -- then within this document, we
5 talk about how heating actually changes the chemical --

6 MS. KOENIG: It can or cannot.

7 MS. DIETZ: It can or cannot, right. So my
8 concern is that if we go down this road with this paper
9 without being very clear on what -- at what point
10 something is turned synthetic, then we may not be able
11 to have a lot of products on the market, because these
12 will now be deemed synthetic.

13 CHAIRPERSON RIDDLE: Kevin.

14 MR. O'RELL: Yes, Kim, and I share your
15 concerns. There are a lot of areas in here that point
16 to specific processes, such as denaturization --
17 denaturing milk for proteins, which is a common practice
18 in manufacturing many dairy products, where you're
19 heating the milk up to denature the proteins to get a
20 specific reaction. So there's a number of points in
21 here, including even talking about from 50 to 60
22 degrees C. That's under legal pasteurization of milk.
23 So it would say that the legal pasteurization of milk is
24 a chemical change on the effect on the protein. So --

25 MS. DIETZ: Right.

1 MS. KOENIG: But can I -- let's go back to --
2 because --

3 MS. DIETZ: Okay.

4 MS. KOENIG: You know, this document, this is
5 a pre-Harvey case document.

6 MS. DIETZ: I know it was.

7 MR. O'RELL: Right.

8 MS. KOENIG: Okay. So we need to make that
9 statement, okay?

10 MS. DIETZ: We -- yeah.

11 MS. KOENIG: The intent of this was to define
12 synthetic for adding substances to the National List.

13 MS. DIETZ: Right.

14 MS. KOENIG: Okay, it wasn't to look at
15 synthetic -- you know, what processing of -- it was
16 simply to be able to use -- to understand what that
17 definition meant, so that when we got TAP reviews, we
18 could clearly determine things that we were continually
19 deferring whether it was synthetic or nonsynthetic --

20 MS. DIETZ: Right.

21 MS. KOENIG: -- where committees wanted to
22 make that distinction. So --

23 MS. DIETZ: Right. And the reason for my
24 concern is, if you'll look at the definition of
25 ingredient in the rule, an ingredient is identified as a

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1 substance, and throughout this document, we talk about
2 substances. So I wholeheartedly agree with where we're
3 trying to take this because that needs to happen and
4 it's a great opportunity for us to separate and really
5 tell this community what we mean by synthetic. But
6 again, let's just be careful that, by presenting a
7 document like this, just for the material review
8 process, we're not setting a precedence to define
9 synthetic that could ruin more products that are out in
10 the market. Nancy.

11 CHAIRPERSON RIDDLE: Nancy.

12 MS. OSTIGUY: One thing that -- the
13 juxtaposition may be causing some of the difficulty.
14 The basic chemistry 101 section is not actually an
15 integral part to the previous page and a half. The idea
16 was to put the basic chemistry 101 in the Board manual
17 to provide people who find some of the chemical
18 discussion difficult a place to go for some very basic
19 information so they feel more secure. So -- and this --
20 correct me if I'm wrong, Rose, but that was almost
21 literally from a chemistry textbook.

22 MS. KOENIG: Yes. And --

23 MS. DIETZ: Yeah. So -- yeah.

24 [Simultaneous comments]

25 MS. DIETZ: Yeah, it's not meant to be our

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1 definition --

2 MS. DIETZ: I know, right.

3 MS. OSTIGUY: -- of chemistry 101.

4 MS. DIETZ: But we were trying to help and --

5 MS. OSTIGUY: Right.

6 MS. DIETZ: -- aid new Board members and aid
7 the process of material review.

8 MS. OSTIGUY: Well, one suggestion I would
9 make, because we're going to be going back to as a
10 committee, would be for us to separate these two things
11 so the juxtaposition is not misinterpreted. We can and
12 we could actually -- if wanted to just take the 101
13 section and say let's put in the Board manual. Then we
14 don't even have it anywhere near the rest of the
15 document. Then look at the rest of the document in
16 light of the current circumstances.

17 MS. DIETZ: Right. I just -- I'm just fearful
18 that in the light of where we're at today, that if we
19 link heating and pasteurizing and --

20 MS. OSTIGUY: Right.

21 MS. DIETZ: -- and denaturing with the term
22 synthetic, that we're going to get ourselves in further
23 trouble.

24 MS. OSTIGUY: No, I understand. I think we
25 need to take into consideration the points that you've

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1 brought up, the points that Kevin said, because --

2 MS. DIETZ: Yeah, that's why we're discussing
3 it.

4 MS. OSTIGUY: -- certain circumstances have
5 changed.

6 MS. DIETZ: Yes, yeah. So again, I appreciate
7 everybody being cognizant of this.

8 CHAIRPERSON RIDDLE: And just -- I really
9 support separating out the basic chemistry. And you
10 know, I would like to see the first part, you know, lead
11 to conclusion, lead to recommendation that really
12 provides the guidance, and I am fully confident that it
13 will.

14 MS. OSTIGUY: I'd like to make a motion.

15 CHAIRPERSON RIDDLE: Oh.

16 MS. OSTIGUY: I'd like to move that we put the
17 -- starting on the second part of page two, the basic
18 chemistry 101 for the NOSB, through page seven, into the
19 Board manual, just as reference information only.

20 MR. CARTER: So do have the original motion?

21 CHAIRPERSON RIDDLE: There was no original
22 motion, it was just presented for discussion, but it is
23 on the agenda for action, so it is eligible for this.
24 But it would take a second.

25 MS. OSTIGUY: It does for a lack of second.

1 CHAIRPERSON RIDDLE: Pardon? Right now we're
2 still waiting on a second. I'm not seeing --

3 MR. CARTER: Second.

4 MS. CAUGHLAN: I'll second it.

5 MR. CARTER: Second.

6 CHAIRPERSON RIDDLE: I heard a second. I
7 heard Goldie second. Okay, so we have discussion on the
8 motion to move the basic chemistry 101 section of this
9 draft into the Board policy manual, and it was moved by
10 Nancy, seconded by Goldie. Discussion on that motion?
11 Bea.

12 MS. JAMES: Not that I want to put you on the
13 spot, Mike, but I would like to propose that, since we
14 have a scientist that's actually on the Board, that he
15 review it and see how -- you know, be able to comment on
16 it and give feedback.

17 MS. OSTIGUY: Point of information.

18 MS. JAMES: Well, I mean --

19 [Simultaneous comments]

20 MR. O'RELL: We have a lot of scientists.

21 MS. OSTIGUY: Yeah, including one of the
22 authors and another one of the committee members.

23 MR. O'RELL: Yeah.

24 MS. JAMES: All of the scientists.

25 CHAIRPERSON RIDDLE: Yeah, yeah. So all

1 right, any other discussion on the motion of moving that
2 into the policy manual? Kim?

3 MS. DIETZ: I know it's important to have it a
4 policy manual, I'm just not sure if it's the right time
5 to do that. And please be careful with what you do and
6 how you act right now with regard to synthetics,
7 nonsynthetics. And documenting anything from this
8 Board, I'm very fearful and I don't think it's the right
9 time to do that.

10 CHAIRPERSON RIDDLE: Kevin?

11 MR. O'RELL: My point would be that this was
12 presented today just as a discussion item --

13 MS. OSTIGUY: No, it wasn't.

14 MR. O'RELL: -- and it was agreed that it was
15 going back to the committee for further work, and I
16 really think --

17 MS. OSTIGUY: No, it wasn't, it was an action
18 item.

19 MR. O'RELL: It was presented by -- by the
20 committee and that's where I would think we need to go
21 back and see what we want to do.

22 CHAIRPERSON RIDDLE: And yeah, I have to agree
23 with Kim and Kevin on this. I really appreciate it, the
24 information. I think it's important, but I would rather
25 see them on the same track. I mean, it's kind of legal

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1 in our Federal Register notice of our agenda that this
2 was listed as an action item, so it can be considered
3 for action, but it was presented for discussion and --
4 but it has been moved and seconded, so we will vote on
5 whether it will go to the Board policy manual today or
6 be held at the committee. Rose?

7 MS. KOENIG: I just wanted to make an note on
8 one thing and when that -- and I don't have a problem
9 with putting it in the policy manual. I mean, the
10 information here has been posted for members who need to
11 refer to it, because it'll be in the meeting book as a
12 draft. So I mean, I think it's functions. But it took
13 me awhile -- I mean, the thing is -- the interesting
14 thing is that substances were removed from that, and
15 that -- in the original document -- and I implore people
16 to go back to the first document that was in the meeting
17 book last time, because it went into more details and it
18 went into the minutes of old meetings to kind of get a
19 consensus of how the process came about on extractions.

20 But, you know, it's actually conceding here
21 that -- anyway, go back to that old document. The big
22 issue was materials that were extracted from plants and
23 naturally occurring things. So those are the items that
24 are really hard for us to make a statement on a lot of
25 times when go through -- the materials -- so I actually

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1 thought it was a big thing to say that the extraction
2 process, as long as it didn't chemically change the
3 substance, that you could really, you know --

4 MS. OSTIGUY: Do anything.

5 MS. KOENIG: -- you could use anything. That
6 always stumped us. And really, the thing that was the
7 impetus was the soy protein isolate TAP. There's a lot
8 of discussion with -- and we said it's synthetic because
9 it's -- that's used in the extraction. Then we started
10 looking at the definition and we realized that no, it's
11 allowed if you look at that definition. So what I'm
12 trying to say is that this should be -- the things about
13 that part actually is a much more liberal -- I think a
14 very liberal understanding of what extraction is. And
15 the things that seem to be disturbing is the idea of a
16 chemical reaction, and just want I to say to the Board
17 is that I think our hands are tied. I mean, you want us
18 to make our recommendation. If we can't use any -- I
19 mean, this is not something that is being invented,
20 these are chemical reactions, and as I said in the
21 committee meetings, you know, we may all as a group
22 decide that -- that, you know -- and I wrote that, but I
23 think the proteins of anything, how you want look at
24 proteins, that's an area of, probably, discussion on the
25 Board. And maybe we could say that, you know,

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1 decomposition reactions aren't synthetic. But, you
2 know, if you went on to the National List -- that's what
3 I'm saying, the information for a legal defense is
4 already in -- on our list. This document only confirms,
5 most of the stuff that's on our list fits into this
6 idea, by chemical change.

7 CHAIRPERSON RIDDLE: The motion is to move the
8 basic chemistry section to the Board policy manual. I'd
9 ask all comments to just be pertinent, specific to that
10 motion. Bea, then Andrea.

11 MS. OSTIGUY: Well, I wanted to call the
12 question.

13 CHAIRPERSON RIDDLE: Well, I called Bea. So
14 then we'll vote.

15 MS. JAMES: To be honest, I just really feel
16 that is premature to vote to put this chemistry section
17 into -- into that with five new members, and quite
18 frankly, I can speak for myself, I'm not familiar enough
19 to be able to vote on this at this time, and I'm asking
20 for -- and I'll trust -- I mean, I trust that the
21 information is extremely useful, but I -- trusting isn't
22 good enough to -- it's not enough fact for me. So I
23 mean, I just feel like I need more time to be able to
24 review this and understand before I can vote on it.

25 CHAIRPERSON RIDDLE: Okay. Nancy?

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1 MS. OSTIGUY: It's clarification. It sounds
2 like it may go back to committee. What is it that
3 people want if this goes back to committee? This is
4 merely an extraction from a chemistry textbook. I am
5 not quite sure what other authority you would like us to
6 use.

7 CHAIRPERSON RIDDLE: Yeah, I think time to
8 really read it and study it is one thing I'm hearing.
9 Andrea?

10 MS. CAROE: I don't have any problem with the
11 chemistry that's written here, it's accurate. It's
12 accurate chemistry. I mean, that's what I studied. My
13 problem is, is that it's incomplete in discussion about
14 synthetics, and it's incomplete because, although the
15 OFPA does not allow synthetics, it does allow certain
16 processes, of which cooking is one of them. So I think,
17 to the more complete answer, I would hate to have
18 somebody look at this for the answer on synthetics.
19 This is not the whole piece. And I think --

20 MS. OSTIGUY: That was never the intent.

21 MS. CAROE: Okay. But I feel like placing it
22 there gives the perception that that's where it's at.
23 So my concern is it by itself and not a discussion on
24 allowed processes as stated in OFPA.

25 CHAIRPERSON RIDDLE: Okay, I think we've had a
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1 good discussion of this and I would like us to vote on
2 whether it --

3 MS. KOENIG: Are we going to be able discuss
4 this -- those comments? We can vote on this. Are we
5 going to go back and --

6 CHAIRPERSON RIDDLE: No, no, no, this is just
7 the motion to move this into the Board policy manual,
8 that's it.

9 MR. O'RELL: And that's just the basic
10 chemistry 101 for NOSB?

11 CHAIRPERSON RIDDLE: Yeah, from that to the
12 end. Uh-huh. So, Kevin, is first.

13 MR. O'RELL: No.

14 CHAIRPERSON RIDDLE: No.

15 MS. CAUGHLAN: I think I --

16 CHAIRPERSON RIDDLE: Yeah.

17 MR. O'RELL: No, I'm not first or --

18 CHAIRPERSON RIDDLE: Yeah, actually, I think
19 Goldie's first, so you're right both ways. Goldie?

20 MS. CAUGHLAN: Well, I'll vote against my
21 second. I vote no.

22 CHAIRPERSON RIDDLE: So no. Okay, Kevin?

23 MR. O'RELL: No.

24 CHAIRPERSON RIDDLE: Andrea?

25 MS. CAROE: No.

1 CHAIRPERSON RIDDLE: Rigo?

2 MR. DELGADO: No.

3 CHAIRPERSON RIDDLE: Hugh?

4 MR. KARREMAN: Yes.

5 CHAIRPERSON RIDDLE: Julie?

6 MS. WEISMAN: No.

7 CHAIRPERSON RIDDLE: Gerald?

8 MR. DAVIS: No.

9 CHAIRPERSON RIDDLE: Mike?

10 MR. LACY: No.

11 CHAIRPERSON RIDDLE: Nancy?

12 MS. OSTIGUY: Yes.

13 CHAIRPERSON RIDDLE: Dave?

14 MR. CARTER: Yes.

15 CHAIRPERSON RIDDLE: Bea?

16 MS. JAMES: No.

17 CHAIRPERSON RIDDLE: George?

18 MR. SIEMON: Yes.

19 CHAIRPERSON RIDDLE: Rose?

20 MS. KOENIG: No.

21 CHAIRPERSON RIDDLE: And the Chair votes no,
22 so four yes, ten no, zero abstentions. We actually
23 defeated something. That's very good. A sign of a
24 strong Board, that we can go either way.

25 MR. CARTER: We can vacillate with the best of
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1 them.

2 CHAIRPERSON RIDDLE: But thanks for -- and
3 definitely, keep it alive.

4 MS. : No.

5 CHAIRPERSON RIDDLE: It's really useful and it
6 stays at committee.

7 MS. OSTIGUY: It doesn't have -- it doesn't
8 have a point, though.

9 MS. KOENIG: Well, I want to go back to the
10 discussion of where you want us to take this.

11 MS. OSTIGUY: Right, that's what we need to
12 know.

13 MS. KOENIG: I don't care --

14 CHAIRPERSON RIDDLE: Yeah.

15 MS. KOENIG: -- if it's in the policy manual.

16 CHAIRPERSON RIDDLE: Well, I think the message
17 that I'm getting is to move them simultaneously so that
18 one is not taken out of context. That's --

19 MR. SIEMON: Can I --

20 CHAIRPERSON RIDDLE: George, then --

21 MR. SIEMON: Is it wrong that we would have
22 for reference only the difference between a heifer and a
23 cow and that kind of information? What would be wrong
24 with that is my question? This is just for reference
25 only for people like me who really failed chemistry. As

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1 long as it's reference only, I just don't see the big
2 deal.

3 CHAIRPERSON RIDDLE: Rose, then Kevin.

4 MS. KOENIG: Yeah. I just -- I feel that if
5 people are sensitive about it, you have it as a
6 reference. So I want to change --

7 MS. OSTIGUY: Don't change it now, right?

8 MS. KOENIG: -- just use the document. You
9 know, just because it's not in the Board policy manual,
10 it's a very useful document. I wish I could say I came
11 up with the ideas, but a chemistry professor did.

12 MR. CARTER: We voted on the motion.

13 MR. O'RELL: Yeah.

14 CHAIRPERSON RIDDLE: Yeah.

15 MR. O'RELL: I withdraw.

16 MS. KOENIG: Okay.

17 CHAIRPERSON RIDDLE: Okay. You withdraw, too?
18 Okay. So --

19 MS. KOENIG: But I did have --

20 CHAIRPERSON RIDDLE: -- back to the --

21 MS. KOENIG: -- a comment.

22 CHAIRPERSON RIDDLE: Right.

23 MS. KOENIG: Okay, the position I think that
24 Nancy and I both feel that we're in is that there is
25 nothing more I can do with this document --

1 MS. OSTIGUY: Um-hum.

2 MS. KOENIG: -- because I fulfilled -- you
3 know, as far as a discussion or a draft, in terms of
4 materials being added to the list only. Now, if the
5 Handling Committee wants to analyze and review it -- and
6 I don't know in what context. I don't understand. If a
7 material comes in -- and let's just -- I don't want to
8 talk about what will happen in the future, but in the
9 case of when materials come in on a petition, we are
10 asked whether it's synthetic or nonsynthetic. What has
11 been the justification of making all of our decisions
12 down the line? Most of them -- that's what I'm saying,
13 if you go and analyze everything that's on the list,
14 they're all going to come into one of these kinds of
15 reactions if they're deemed synthetic. And the only
16 thing that is really a question, there are things,
17 probably, that we didn't put on the list that we said
18 were nonsynthetic -- they wouldn't have fit -- they
19 hopefully would not have fit into this chemical change
20 or any of that. So that's what I don't understand. I
21 don't think we have enough guidance, as a committee, of
22 what more that we can do on it. But do you want us to
23 narrow the definition, take out the composition
24 reactions? What do you want us to do?

25 CHAIRPERSON RIDDLE: Arthur, do you want

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1 comment?

2 MR. NEAL: From an NOP perspective, one of the
3 reasons why we allowed this matter to stay on the table
4 for the agenda is because we know there's an issue going
5 on with handling substances. We've got three substances
6 on the agenda for Crops, that have to -- that a
7 determination has to be made on if it's synthetic or
8 nonsynthetic. Soy protein isolate's been in the works
9 for three years, and the issue there is, is it synthetic
10 or nonsynthetic. If it gets deferred again because we
11 still don't know, that may be the case. But the main
12 deal is to make sure that the Board actually resolves
13 this issue because, absent knowing when a substance is a
14 synthetic or a nonsynthetic, you really probably
15 shouldn't be approving any materials.

16 CHAIRPERSON RIDDLE: Kim, and then I have a
17 comment.

18 MS. DIETZ: My recommendation would be to have
19 the Handling Committee look at this document and make
20 sure that there's -- there's a lot of extraction
21 processes in handling that this definition could affect.
22 So at least let the Handling Committee take a look at it
23 and make sure that somehow you clearly designate the
24 difference between reviewing a substance to be included
25 on the National List and a handling material, or a

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1 handling ingredient. And that's all, I guess, that I'm
2 asking, is that this Board just doesn't make any
3 decisions today that could affect the whole entire
4 industry. So it's a great document and we've been
5 working on it for quite some time, and I think it could
6 continue go forward and we'll know very shortly which
7 way to take it. But at this time, let the Handling
8 Committee look at it, too, and make sure that you're not
9 offsetting two different areas.

10 CHAIRPERSON RIDDLE: And I guess -- and my
11 comment follows right up on that and that is, in the
12 middle of the page where it says to ensure consistent
13 application of the definition of synthetic, the NOSB may
14 want to consider the following. I think it should be
15 ultimately, the NOSB recommends the following. I mean,
16 it needs to be in the phrase as a recommendation that
17 this is how we understand each of these items, so that
18 we know at the end of the day what guidance we've
19 adopted. So I'd like it to turn into a voteable [ph] --
20 you know, actionable item. Rigo?

21 MR. DELGADO: I would like to recommend
22 something that's somewhat more practical, going back to
23 the question that Nancy had. And I like the table on
24 the evaluation criteria for substances very much, in the
25 sense that it's straight to the point. It has the

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1 specific criteria that one follows to determine, in this
2 table, what is relevant or should not be considered.
3 Can we do the same with this information? Can we
4 actually identify the criteria that will tell me if
5 I'm --

6 MS. OSTIGUY: Yeah.

7 MR. DELGADO: -- of a specific substance, and
8 come to a conclusion on whether this material is --

9 MS. OSTIGUY: That's a good idea.

10 MS. CAUGHLAN: For the matrix.

11 MR. DELGADO: Yeah, a matrix, yeah.

12 CHAIRPERSON RIDDLE: Yeah, kind of a matrix.
13 Uh-huh. A good suggestion.

14 MR. DELGADO: That's what I'm looking for,
15 the --

16 [Simultaneous comments]

17 CHAIRPERSON RIDDLE: Um-hum. Yeah, Rose?

18 MS. KOENIG: Well, I mean, the idea is that
19 you actually -- you mean, functionally for you when you
20 get to the thing? I mean, if once we have the
21 definition, the contractor, we can say this is what we
22 mean by synthetic to the contractor. We should actually
23 be getting that information straight back. They will
24 say this is synthetic because it is a -- we want the
25 specificity, an addition or a combination reaction. And

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1 you have said that an addition combination reactions
2 make your products better. And that's why we need it,
3 because we've never specifically gotten that and there's
4 gray -- we don't know -- there's something -- you go to
5 the minutes and people say it's synthetic because it's
6 highly processed. That doesn't tell you anything. We
7 need to know exactly what -- what makes a synthetic
8 where.

9 CHAIRPERSON RIDDLE: Nancy?

10 MS. OSTIGUY: Well, I think if the Handling
11 Committee looks at it to make sure that we're not
12 messing something up, we can then put it into the kind
13 of framework that you're talking about, if nothing else,
14 for the TAP contractors to use so that they do supply us
15 with all the information that we need to make that final
16 determination, in the same way that we're using the
17 documents now. They have those, too.

18 MS. KOENIG: But --

19 CHAIRPERSON RIDDLE: Rick and then Kevin.

20 MR. MATHEWS: Yeah. You're on the right track
21 now. I agree totally with Rose and Rigo, that what we
22 want to see out of this Board, whether it's at this
23 meeting or the next meeting or the meeting after that,
24 we need something that is your statement of how you
25 determine whether something is synthetic or

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1 nonsynthetic. This fits all into this overarching issue
2 of fixing the materials review process, and this is one
3 piece of that. And in order to make our decisions
4 defensible, we have to have a good, definitive statement
5 from this Board as to when is it this and when is not
6 this.

7 And one thing that I'll remind you of is that,
8 while I've been sitting on this Board -- I was not
9 sitting on the Board. But -- and I don't want to, by
10 the way. As long as I've been working on this Program,
11 there have been times that I've heard the Board say
12 wall, we're not really sure, so we're going to take the
13 safe route out and call it a synthetic, and that's
14 really not where we want to be. And so we need you to
15 give us a definitive answer as to how do you determine
16 what is synthetic versus nonsynthetic. And the sooner
17 the better.

18 CHAIRPERSON RIDDLE: Andrea, you got bumped
19 up.

20 MS. CAROE: I got bumped up? My question is a
21 detail question on the document and it's the section,
22 formulation shall be understood to mean. I don't
23 understand formulation to mean what is written there. A
24 formulation could be a spice blend. It doesn't have to
25 be something that was extracted, it doesn't necessarily

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1 have to be a synthetic. So I'm concerned about calling
2 all formulations -- because there are mixtures. So I
3 would prefer to distinguish the difference between a
4 reacted formulation and a mixture, which is later, it's
5 done later, but --

6 MS. KOENIG: Yeah. And I didn't -- Nancy kind
7 of worked on filling out of the recommendation of it,
8 and I was just thinking that that -- that might be the
9 area where we could supply -- this may solve it, and
10 think about it as a process in our Handling Committee,
11 if we just say that we're talking about clear
12 substances, compounds, or elements.

13 CHAIRPERSON RIDDLE: This is reaching the
14 level of committee work.

15 MS. OSTIGUY: Okay.

16 MR. O'RELL: Yeah.

17 MS. KOENIG: All right. But either way, if
18 the Handling Committee does that, it has to be high
19 priority. We need something if our next step is
20 contingent on you all and we're really at a standstill
21 until you guys can --

22 MS. OSTIGUY: We've got lots of time.

23 MR. O'RELL: The Handling Committee will
24 definitely participate and take a look at this. My only
25 concern was, in entering it into our policy Board

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1 manual, that we're saying in a sense that this is what
2 our guideline is for synthetic. Somebody could look at
3 that --

4 MS. OSTIGUY: And misinterpret it.

5 MR. O'RELL: -- misinterpret that out of
6 context and say, you pasteurize milk, that's a
7 synthetic. You add acids to juices, they disassociate,
8 that's a synthetic. And I just want to make sure that
9 we are very clear when we put it in, that we say that it
10 is for substances material review and not the result of
11 the processes that we go through, because we clearly are
12 allowed to process these products, to heat and add acids
13 together. That's the only concern, and we'll work
14 together.

15 MS. OSTIGUY: Yeah. And I know -- and I'm
16 pretty sure Rose is in the same position, we don't know
17 that much about processing or handling. So I'm really
18 glad you guys are going to deal with that, because I
19 wouldn't do it adequately.

20 MR. O'RELL: We just needed something else to
21 do.

22 MS. OSTIGUY: We try.

23 CHAIRPERSON RIDDLE: Okay. Well --

24 MS. CAROE: Give Kevin the stress turkey.

25 CHAIRPERSON RIDDLE: All right. Well, that

1 was a very good discussion. And now we'll be starting
2 on Crops. We already had that break, but it says on the
3 agenda -- but do you need five minutes. Huh?

4 UNIDENTIFIED SPEAKER: Let's go.

5 CHAIRPERSON RIDDLE: You go on --

6 MS. OSTIGUY: Yeah, I can go.

7 CHAIRPERSON RIDDLE: And it's Nancy's -- are
8 you ready to -- ready to roll?

9 MS. OSTIGUY: Yes. Some of this -- well, it's
10 actually very apropos, what we just finished talking
11 about. So starting with the materials, soy protein
12 isolate, the committee recommendation that was published
13 has changed because the time of the -- that vote, there
14 were only two of us on the committee. We now actually
15 have a functioning committee, that -- now that Rigo and
16 Gerry have joined us. Where we are at this point is the
17 committee is recommending to, would you believe, defer,
18 because we don't have synthetic and nonsynthetic
19 defined. We have to be able to do that, and my concern
20 why I want to defer it is, the last thing we need to do
21 is not be consistent, and we're having a major problem
22 with that, so in the sense of, you know, feeling clear
23 about what we're doing. So defer soy protein isolates
24 again. Ammonium --

25 MR. O'RELL: Was that a motion?

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1 CHAIRPERSON RIDDLE: It doesn't need to be --

2 MR. O'RELL: Oh.

3 CHAIRPERSON RIDDLE: -- if the committee
4 making a rep[ort].

5 MS. OSTIGUY: Right, yeah. Ammonium
6 bicarbonate, again changing the recommendation on what
7 was published for the same reason as soy protein
8 isolate. We desperately need to have the definition of
9 synthetic and nonsynthetic clear. The recommendation
10 was that it was a nonsynthetic. If we proceed to go
11 that direction, just to give the Board a sense of one of
12 the difficulties with this material, the committee is
13 considering adding ammonium bicarbonate to the
14 prohibited natural list and then listing this as an
15 acceptable processing method, because this -- based upon
16 our sense of what natural synthetic -- synthetic and
17 nonsynthetic was, without the real firm definition, this
18 was fitting as a nonsynthetic, but the concern is that
19 there are other ways in which this material is produced,
20 and not wanting the misinterpretation. That is being
21 thought about. If people have comments, other
22 suggestions, the committee would welcome them, including
23 from the public. Just how to figure -- how to do this
24 one right.

25 Ferric phosphate, moving right along, again, a
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1 change in the committee recommendation. The committee
2 had originally recommended to prohibit this material.
3 We are changing that to a recommendation to allow, to
4 add to the National List with an annotation that it is
5 to be used as a molluscicide [ph] only. And -- in the
6 mineral category, yes. We had to -- we also changed
7 some of the -- the TAPs, so that would end up changing
8 category two, where we had a couple of responses that
9 pushed this material into not meeting the second
10 criteria. Those have been changed to such that that
11 criteria is met, the public comment yesterday and the
12 day before, indicating that the materials -- the
13 alternative methods were not realistic.

14 CHAIRPERSON RIDDLE: Are you making a motion?

15 MS. OSTIGUY: Yeah, motion -- yes. So it
16 needs to be seconded.

17 CHAIRPERSON RIDDLE: So --

18 MS. KOENIG: I'll second it.

19 CHAIRPERSON RIDDLE: So okay. Nancy moved,
20 Rose seconded to allow ferric phosphate for -- as a
21 molluscicide.

22 MS. OSTIGUY: Correct. Molluscicide.

23 CHAIRPERSON RIDDLE: Molluscicide. Okay.
24 First, before we start discussion, I'll ask, are there
25 any -- does anyone have any interest to declare? And

1 snail or slug farmers?

2 MS. OSTIGUY: I have snails in my yard.

3 CHAIRPERSON RIDDLE: Okay, seeing none, we'll
4 proceed. Andrea?

5 MS. CAROE: Nancy, a question. Why do we need
6 the annotation when the list has a section for slug and
7 snail bait? I don't believe it needs an annotation if
8 it's listed in that reserved area of the list. It's
9 Section --

10 MS. OSTIGUY: That would be accepted as a
11 friendly amendment.

12 MS. CAROE: -- 205.600 --

13 MR. MATHEWS: 601(h).

14 CHAIRPERSON RIDDLE: 601(h).

15 MS. CAROE: Yes, (h). So I don't believe it
16 needs new annotations.

17 CHAIRPERSON RIDDLE: So we've changed the
18 motion for placement at --

19 MS. OSTIGUY: Yes, that -- so --

20 CHAIRPERSON RIDDLE: -- 205.601(h).

21 MS. OSTIGUY: To clarify the motion, then, I
22 move that we move ferric phosphate to Section 205.601(h)
23 as an approved material.

24 CHAIRPERSON RIDDLE: Okay, discussion on the
25 revised motion? George?

1 MR. SIEMON: Does this cover all the original
2 requested uses?

3 MS. OSTIGUY: Yes.

4 MR. SIEMON: As far as I know, it does.

5 MS. OSTIGUY: Yes.

6 MR. SIEMON: I just wanted to make sure,
7 because we're not -- from the original question.

8 CHAIRPERSON RIDDLE: Rose?

9 MS. KOENIG: I just wanted for the record, if
10 you remember, during public comment on this substance
11 with the petitioner, you know, one of our areas that I
12 couldn't figure out was where it would be placed. But
13 upon thinking about it, just for the record, if the
14 production aid changes to the middle category so the
15 OFPA criteria is satisfied --

16 MS. OSTIGUY: Right.

17 MS. KOENIG: -- for this substance.

18 CHAIRPERSON RIDDLE: Okay. And the final
19 materials review sheet will reflect that?

20 MS. OSTIGUY: Correct. So a revised version
21 will be submitted to the NOP.

22 CHAIRPERSON RIDDLE: Okay. Any further
23 discussion?

24 ***

25 [No response]

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CHAIRPERSON RIDDLE: Seeing none, we'll move
to a vote. Now Kevin gets go first.

MR. O'RELL: Yes.

CHAIRPERSON RIDDLE: Kevin, yes. Andrea?

MS. CAROE: Yes.

CHAIRPERSON RIDDLE: Rigo?

MR. DELGADO: Yes.

CHAIRPERSON RIDDLE: Hugh? Hugh is absent.
Julie?

MS. WEISMAN: Yes.

CHAIRPERSON RIDDLE: Gerald?

MR. DAVIS: Yes.

CHAIRPERSON RIDDLE: Mike?

MR. LACY: Yes.

CHAIRPERSON RIDDLE: Nancy?

MS. OSTIGUY: Yes.

CHAIRPERSON RIDDLE: Dave?

MS. CAROE: Absent.

CHAIRPERSON RIDDLE: Bea?

MS. JAMES: Abstain.

CHAIRPERSON RIDDLE: George?

MR. SIEMON: Yes.

CHAIRPERSON RIDDLE: Rose?

MS. KOENIG: Yes.

1 CHAIRPERSON RIDDLE: Goldie?

2 MS. CAUGHLAN: Yes.

3 CHAIRPERSON RIDDLE: And the Chair abstains.

4 I haven't done that yet.

5 MS. OSTIGUY: Wow.

6 MR. O'RELL: You're full of surprises.

7 CHAIRPERSON RIDDLE: Yeah.

8 MS. OSTIGUY: Ten, zero, two, two.

9 CHAIRPERSON RIDDLE: Oh, thanks. Ten yes,
10 zero no, two abstentions, and two absent, so the motion
11 passes. Thanks. Okay, moving on.

12 MS. OSTIGUY: Okay. Compost tea is the next
13 item. It is not an action item; information only. The
14 committee is working to bring to the Board a
15 recommendation that combines the compost tea and the
16 compost task force recommendations. We have not
17 completed that yet. When we complete it, it will be
18 posted prior to the Board meeting, where we consider it.
19 Commercial availability of seed.

20 CHAIRPERSON RIDDLE: And there's the other
21 compost Q and A point there.

22 MS. OSTIGUY: Oh.

23 CHAIRPERSON RIDDLE: I assume that would also
24 be rolled into that.

25 MS. OSTIGUY: That's in the same category,

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1 yes.

2 CHAIRPERSON RIDDLE: Yeah, I just wanted to
3 make sure for the record.

4 MS. OSTIGUY: Sorry. So the compost Q and A
5 will also come later. Guidance on commercial
6 availability of seed, organic seed. Based upon the
7 public comment, what I would recommend is that we
8 actually defer, it goes back to the committee and we
9 take into account those comments. Does anybody want to
10 go contrary?

11 CHAIRPERSON RIDDLE: Arthur?

12 MR. NEAL: A point of -- I just need
13 clarification. The recommendations to defer, will the
14 Board vote on those at the end, or are you just moving
15 along as they are?

16 CHAIRPERSON RIDDLE: If the committee is
17 reporting that they're holding them at committee --

18 MR. NEAL: Okay.

19 CHAIRPERSON RIDDLE: -- there's no action to
20 take.

21 MR. NEAL: Okay.

22 CHAIRPERSON RIDDLE: If they had, you know,
23 presented something for a vote and we voted to defer it,
24 that would be a different action. But they're just
25 recommending to hold at committee for further work.

1 MS. OSTIGUY: Right. Based upon the public
2 comment and such. Let's see. Maintaining or improving
3 natural resources.

4 CHAIRPERSON RIDDLE: George?

5 MR. SIEMON: Isn't there any discussion?

6 CHAIRPERSON RIDDLE: Maybe not. Do you have
7 another comment? You can --

8 MR. SIEMON: Well --

9 CHAIRPERSON RIDDLE: -- ask a question of
10 Nancy.

11 MR. SIEMON: -- I just feel like people are
12 waiting for us to give input, and just stalling is just
13 another six months. So I hear you. You all met and
14 just thought you needed more time?

15 MS. KOENIG: Well, there was --

16 MR. SIEMON: There's some good input here.

17 CHAIRPERSON RIDDLE: Um-hum.

18 MS. OSTIGUY: Um-hum.

19 MS. KOENIG: There was. There was some
20 significant input, and even today we got some input on
21 the biodiversity issue. Again, just because of the
22 structure, now we have a functional committee. I think
23 it just makes sense to have a consensus, and I don't
24 feel comfortable as a committee member -- our
25 recommendation. We have to incorporate things.

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1 MS. OSTIGUY: Yeah. I would very much -- I
2 think that the work that was done, which we should thank
3 Jim for doing, it was very, very good, but we have
4 public comment that I would like to include and I would
5 prefer not to do that on the fly. So -- okay. On the
6 recommendation for maintaining or improving natural
7 resources, we have a motion. I move that the Board
8 accepts the provided enhancement of the natural resource
9 component of the organic system plan, with the
10 understanding that ATTRA would revise the format
11 provided and that ATTRA's revised format will come back
12 to the Board for a final consideration. Any discussion?

13 CHAIRPERSON RIDDLE: Is there a second?

14 MR. DAVIS: Second.

15 CHAIRPERSON RIDDLE: Gerald seconds.

16 MS. OSTIGUY: The idea here is that -- what
17 we're after is the committee to agree with the ideas
18 that are there, and the particular format might change.
19 There are several of us that are on ATTRA's mailing list
20 and such, to deal with this kind of thing, but
21 ultimately, it would come back to the Board for us to
22 look at to make sure that something hasn't been done
23 that changes our original intent. So this is our -- an
24 intent document.

25 CHAIRPERSON RIDDLE: Well, if we vote in favor
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1 of this, we're endorsing the language and the concepts,
2 but luckily we have ATTRA lined up to actually do the
3 work of writing the amendment to the organic system plan
4 template. That's not going to fall back to the Crops
5 Committee, but then that revised template will come back
6 and be presented to the Board again. So that's --

7 MS. CAROE: But this still represents values
8 [ph] right?

9 CHAIRPERSON RIDDLE: Yeah. George?

10 MR. SIEMON: What we're talking about -- is
11 this question airtight?

12 MS. OSTIGUY: Um-hum.

13 MR. SIEMON: The one that's up on the screen
14 there, right?

15 MS. OSTIGUY: Um-hum.

16 CHAIRPERSON RIDDLE: Yeah.

17 MR. SIEMON: So the intent here -- a bunch of
18 questions does not tell me of the intent, necessarily.
19 So you say we're sending a message of intent to be
20 reformatted. These are a lot of questions. Before we
21 had -- I'm a little confused about what the intent of
22 this is for. And the next question is -- it is in the
23 opening paragraph. I don't know why we have water
24 quality under biodiversity, including irrigation water,
25 that whole part on water, the second -- the last -- not

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1 the last line in that paragraph, but the two lines
2 before that, I don't know quite know how that fits into
3 the biodiversity, myself. Testing water --

4 CHAIRPERSON RIDDLE: And if I could respond to
5 that. Some of that section is already in the organic
6 system plan, but Section 205.200 requires that an
7 operator will maintain or improve the natural resources
8 of the operation. And then when you read the definition
9 of natural resources of the operation in the rule, it
10 says the physical, hydrological, and biological features
11 of a production operation, including soil, water,
12 wetlands, woodlands, and wildlife. So these are already
13 requirements under the rule. It's just helping
14 producers understand the options, and helping certifiers
15 and inspectors understand how to assess compliance.

16 MR. SIEMON: But say I test my irrigation
17 water and it has a trace amount of some kind --
18 material, then what?

19 MS. OSTIGUY: That's for processing and
20 washing, that's not what I'm talking about.

21 MR. SIEMON: It's irrigation water.
22 Irrigation water should not contain -- materials. We
23 all know that's a real issue out there.

24 MS. OSTIGUY: This water is used for washing
25 and processing organic products.

1 MR. SIEMON: No, the next line. The next
2 line, irrigation water.

3 MS. OSTIGUY: Well, yeah.

4 MR. SIEMON: -- the processing. The
5 processing is not about biodiversity, even if we went
6 back to that one. Washing and processing is not
7 biodiversity. It just seems to go --

8 MS. OSTIGUY: Some of these things are
9 directly lifted from the current document, and right now
10 I couldn't tell you which is which.

11 MR. SIEMON: Well, he's got 200.203(a) [ph],
12 right? Is that -- do you mean the present rule?

13 MS. OSTIGUY: The present plan outline
14 document.

15 CHAIRPERSON RIDDLE: Right.

16 MS. OSTIGUY: I didn't create any of this.

17 MR. SIEMON: Okay. So -- okay.

18 CHAIRPERSON RIDDLE: Gerald?

19 MR. DAVIS: George, I don't know if Mike's
20 statement has anything to do with what you're saying,
21 but in my mind, the term biodiversity and natural
22 resources don't mean the same thing. And aren't we
23 addressing natural resources? But I hear the
24 biodiversity term throughout the meeting thrown up there
25 connected to this issue. I'm a little confused on what

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1 -- what is it, you know?

2 CHAIRPERSON RIDDLE: Yeah. Well -- and my
3 response is, yeah, the broader category is natural
4 resources, and that's how it's listed on the agenda, but
5 biodiversity is one of those or --

6 MS. OSTIGUY: Right.

7 CHAIRPERSON RIDDLE: -- you know, some of
8 those to be assessed, and then also is a requirement. I
9 mean, the very definition of organic production includes
10 to maintain or improve the biodiversity. So it is
11 addressed in organic production, and this is just
12 helping give better tools to assess compliance. Andrea?

13 MS. CAROE: Just based on something you just
14 said, this is giving tools to assess compliance. You
15 can't assess compliance by this guidance, you can't. I
16 mean, this is not --

17 MS. OSTIGUY: Well, he knows.

18 MS. CAROE: -- this is not a rule. You can't
19 -- this is guidance. This is strictly for information
20 purposes and the certifier cannot use this to assess
21 compliance with the regulation.

22 CHAIRPERSON RIDDLE: And it's -- it would be
23 an amendment to the model organic system plan to help
24 provide information to show -- you know, like for
25 farmers, to show how they comply with the requirements.

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1 It's not creating any new requirements that aren't there
2 in the regulation at all.

3 MS. OSTIGUY: The goal was to clarify what
4 already exists, the sum total.

5 CHAIRPERSON RIDDLE: Any other --

6 MS. CAROE: Yeah.

7 CHAIRPERSON RIDDLE: Yeah, Andrea.

8 MS. CAROE: Again, not to sound like Richard
9 Mathews, but if you don't do these things, you're not
10 going to be decertified. There's no grounds for
11 decertification because of these items, and that's just
12 something to keep in perspective as we work --

13 MS. OSTIGUY: No, that's not actually correct,
14 because these are required to do by the law and the
15 rule, not these specific items. What matters is whether
16 or not your overall complying. And the question that's
17 been coming is what do I do to comply, and this is to
18 provide a way for farmers to go about the process so
19 they can figure if they're complying. That's --

20 MS. CAROE: Again, I agree this is wonderful
21 information and I think it was -- I mean, I'm glad to
22 see somebody stating these conservation measures in
23 association with organic, but it is information, it is
24 not compliance. And you know, yes, yes, the rule does
25 have compliance points, but how you meet those

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1 compliance points, it's really take it or leave it when
2 it comes to these. And this is very good educational
3 information for the growers that are putting together a
4 conservation plan to meet their requirements.

5 CHAIRPERSON RIDDLE: And I'll just respond
6 once again by reading from the rule. "Production
7 practices implemented in accordance with this subpart
8 must maintain or improve the natural resources of the
9 operation, including soil and water quality." That
10 sounds like a requirement to me. And then must prevent
11 erosion is another one. I mean, there are a number of
12 natural resources-related components. George?

13 MR. SIEMON: Okay.

14 CHAIRPERSON RIDDLE: And then we're winding
15 down.

16 MR. SIEMON: So I understand we're saying
17 intent and we're going to get back to rewrite it.

18 CHAIRPERSON RIDDLE: Right.

19 MR. SIEMON: But they're going to rewrite it,
20 as far as I know, in another form.

21 CHAIRPERSON RIDDLE: Actually incorporating it
22 into the model farm plan.

23 MR. SIEMON: The model farm plan.

24 CHAIRPERSON RIDDLE: Right.

25 MS. OSTIGUY: Um-hum, um-hum.

1 MR. SIEMON: My only concern is it just
2 increases paperwork for farmers. It's hard enough to
3 get them fill out the paperwork we have. We're doubling
4 the size of --

5 CHAIRPERSON RIDDLE: Nancy.

6 MS. OSTIGUY: What we started with was
7 substantially longer than this. I shortened it
8 considerably. ATTRA's goal is to shorten it, also,
9 basically to clarify it. The idea is not to increase
10 anybody's paperwork, but to make it more understandable
11 what it is that they need to do in order to comply with
12 that particular section of OFPA. So there may be some
13 pieces that are applicable to a particular farm, other
14 pieces that are -- you know, yeah, you're right.
15 Paperwork, people don't like to do, but it's part of the
16 process.

17 CHAIRPERSON RIDDLE: And another part of this
18 is, throughout the ATTRA documents is checkboxes that
19 give a producer of ideas of how they already are
20 complying and just can check what they are doing
21 already. Yeah, Hugh, and then let's try and wrap it up
22 here.

23 MR. KARREMAN: I hate to beat a dead horse on
24 the NRCS, but you know, they're the ones that'll just
25 come up with the plan for you, so you're not doing a

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1 whole lot of paperwork. You just say please come in,
2 you know, do this kind of checklist and give me my
3 conservation plan, and a lot of this will be included in
4 that --

5 MS. OSTIGUY: Um-hum.

6 MR. KARREMAN: -- and you didn't have to do a
7 thing.

8 MS. OSTIGUY: Right.

9 CHAIRPERSON RIDDLE: Well, yeah. But doing
10 your NRCS, there's a bit of paperwork, too.

11 MR. CARTER: Yeah.

12 MR. KARREMAN: Yeah, but they will come up
13 with the plan. You don't have to come up with it.

14 CHAIRPERSON RIDDLE: But sure, that would be
15 another thing to show you're complying with all of these
16 same requirements. Okay, let's go on to a vote now, and
17 Andrea's turn to be first.

18 MS. CAROE: So can you read the motion you're
19 reading?

20 CHAIRPERSON RIDDLE: Nancy, could --

21 MS. CAROE: Can you reread the motion?

22 MS. OSTIGUY: I move -- oops. I move that the
23 Board accepts the provided enhancement of the natural
24 resource component of the organic system plan, with the
25 understanding that ATTRA will revise the format provided

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1 and that ATTRA's revised format will come back to the
2 Board for final consideration.

3 MS. CAROE: Yes.

4 CHAIRPERSON RIDDLE: Okay. Rigo?

5 MR. DELGADO: Yes.

6 CHAIRPERSON RIDDLE: Hugh?

7 MR. KARREMAN: Yes.

8 CHAIRPERSON RIDDLE: Julie?

9 MS. WEISMAN: Yes.

10 CHAIRPERSON RIDDLE: Gerald?

11 MR. DAVIS: Yes.

12 CHAIRPERSON RIDDLE: Mike?

13 MR. LACY: Yes.

14 CHAIRPERSON RIDDLE: Nancy?

15 MS. OSTIGUY: Yes.

16 CHAIRPERSON RIDDLE: Dave?

17 MR. CARTER: Yes.

18 CHAIRPERSON RIDDLE: Bea?

19 MS. JAMES: Yes.

20 CHAIRPERSON RIDDLE: George?

21 MR. SIEMON: Yes.

22 CHAIRPERSON RIDDLE: Rose? Rose had to go
23 help someone and she actually said her vote is yes.
24 Goldie, what was Rose's vote? I should've asked you.
25 They don't trust me.

1 MS. CAUGHLAN: Definitely yes.

2 CHAIRPERSON RIDDLE: A double yes. Okay,
3 Goldie?

4 MS. CAUGHLAN: Yes.

5 CHAIRPERSON RIDDLE: Kevin?

6 MR. O'RELL: Yes.

7 CHAIRPERSON RIDDLE: And the Chair votes yes,
8 so we're back to unanimity. It'd be 14, 0, 0, 0. All
9 right, thanks.

10 MS. OSTIGUY: Okay, last item --

11 CHAIRPERSON RIDDLE: Nancy?

12 MS. OSTIGUY: -- waxed boxes. This was a
13 Q and A that we got from the NOP. Get me to the right
14 section here. The recommendation starts with the
15 question, does Section 205.272 allow the use of boxes
16 coated with a synthetic wax for transport of
17 agricultural products? The answer: a box may be coated
18 with a petroleum-based or a synthetic wax. Section
19 205.272(b)(1) prohibits the use of packaging materials
20 that contain synthetic fungicides, preservatives, or
21 fumigants. The allowance of nonsynthetic carnauba and
22 wood resin waxes, in 205.605(a), applies to waxes that
23 are directly applied to produce. It does not apply to
24 waxes used on produce boxes. Certifiers allow the use
25 of waxed produced boxes without concern as to the source

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1 of wax, so long as the wax does not contain synthetic
2 fungicides, preservatives, such as BHT or BHA, or
3 fumigants. Many boxes used for conventional produce are
4 treated with fungicides, or else the box contains a
5 fungicide-treated liner. These are not allowed for
6 organic produce. If a bag or container contains a
7 prohibited substance, then the use of reuse of that bag
8 or container is prohibited under 205.272(b)(2), unless
9 the bag or container has been thoroughly cleaned and
10 poses no risk of contamination. This provision may be
11 used by a certifier to prohibit the reuse of
12 conventional produce boxes, or to require that packaging
13 materials be removed from a storage area during
14 pesticide treatment.

15 CHAIRPERSON RIDDLE: Okay. And do you move
16 its --

17 MS. OSTIGUY: And that's a motion.

18 CHAIRPERSON RIDDLE: -- adoption?

19 MS. OSTIGUY: Yes.

20 CHAIRPERSON RIDDLE: Is there a second?

21 MR. LACY: Second.

22 CHAIRPERSON RIDDLE: A second by Mike, moved
23 by Nancy. All right, discussion. Andrea.

24 MS. CAROE: I would just offer an amendment to
25 change the word produce to product, just in case there's

1 an opportunity for a processed food to end up in a waxed
2 box.

3 MS. OSTIGUY: A friendly amendment.

4 CHAIRPERSON RIDDLE: Accepted by Mike?

5 MR. LACY: Yeah, because chicken could end up
6 in a waxed box.

7 CHAIRPERSON RIDDLE: Uh-huh. Okay, so you'll
8 take care to make that revision before submitting the
9 final, if it passes. All right, other comments on the
10 now amended waxed box Q and A? Hugh?

11 MR. KARREMAN: Just wondering, when it says if
12 a bag or container contains a prohibited substance, it
13 says it can be thoroughly cleaned. By cleaned, how?
14 Should that be defined, how to be cleaned before it's
15 okay? It just seems kind of vague.

16 CHAIRPERSON RIDDLE: Yeah. Well, it's a
17 direct quote from the regulation --

18 MR. KARREMAN: Oh, okay.

19 CHAIRPERSON RIDDLE: -- and it says, unless
20 has been thoroughly clean and poses no risk.

21 MR. KARREMAN: Well, I'm just -- I'm still
22 kind of curious how --

23 CHAIRPERSON RIDDLE: Sure.

24 MR. KARREMAN: -- would clean that.

25 CHAIRPERSON RIDDLE: I don't know that that's

1 our role as a Board, but --

2 MS. OSTIGUY: It was a similar concern that I
3 had, that basically, that answered the same way.

4 CHAIRPERSON RIDDLE: Call ATTRA and find out
5 how to thoroughly clean boxes so they don't pose a
6 contamination risk. Maybe there's a fact sheet on that.
7 George?

8 MR. SIEMON: I'm just concerned about the
9 produce versus product that we've now moved into
10 packaging. Product -- you know, I just -- you know, so
11 I want to be cautious here. We started out with produce
12 -- I'm all for waxed packages, don't get me wrong, but
13 are we clear we're not --

14 MS. OSTIGUY: Well --

15 MR. SIEMON: -- jumping to the subject in the
16 Crops Committee --

17 MS. OSTIGUY: The --

18 MR. SIEMON: -- into the Handling.

19 MS. OSTIGUY: The original question was
20 product, so agricultural products. So --

21 MS. CAUGHLAN: It didn't say produce.

22 MS. OSTIGUY: It did not say produce. So we
23 can say we're just being consistent with the question.

24 CHAIRPERSON RIDDLE: And also consistent with
25 the rule, which uses the word product or ingredient

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1 placed in those containers. So it even goes a little
2 further in the rule. Andrea?

3 MS. CAROE: George, are you wanting to add the
4 word agriculture to it -- agricultural?

5 MR. SIEMON: I was just asking more to Kevin
6 to make sure we're not jumping into handling packaging-
7 type concerns, to make sure that it's -- it's a big
8 deal, waxed packaging. So if this works, that's fine.

9 MR. O'RELL: I think it's consistent.

10 MS. OSTIGUY: Um-hum.

11 CHAIRPERSON RIDDLE: Bea?

12 MS. JAMES: I have a question that maybe
13 somebody can answer for me. If commingling is not
14 allowed because of crops contamination, why are organic
15 produce items allowed to sit on petroleum-based wax? Is
16 there residue that takes place? Does a residue get onto
17 the produce during transport, from the petroleum?

18 MS. OSTIGUY: I suppose it would depend on
19 what level you might be interested in. If we were to go
20 to parts per trillion or parts per quadrillion, I would
21 assume something might be there, but I'm not positive.
22 You know, the wax -- the purpose of waxed boxes is not
23 to impart anything to the product --

24 MS. JAMES: Right. I understand that's a
25 protestant -- to other outside -- it's just confusing a

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1 little bit, because the regulations are so strict about
2 cross-contamination of products and synthetics, and here
3 we're saying that a box that does come into contact with
4 an organic food item, which actually might come directly
5 into contact -- say, such as apples, that it's okay for
6 those two things to commingle, but it's not okay for --
7 it's just a little confusing to me --

8 MS. OSTIGUY: Yeah.

9 MS. JAMES: -- why petroleum-based and
10 synthetic waxes are okay.

11 MS. CAROE: Jim?

12 CHAIRPERSON RIDDLE: Yeah, Andrea and then
13 Arthur.

14 MS. CAROE: This level of evaluation is done
15 on the certification level. During the evaluation and
16 the inspection and the certification review, they will
17 mitigate -- they will investigate the risk from
18 contamination, and I don't believe that it's necessary.
19 I mean, the rule clearly states that the product can't
20 be contaminated. The certifier will review if there's a
21 potential risk of contamination at that time. I don't
22 think that that's appropriate for us to weigh in on that
23 at this time.

24 CHAIRPERSON RIDDLE: Arthur?

25 MR. NEAL: I agree with Andrea. Packaging is
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1 a totally different area in the regulatory world, and
2 which FDA really handles. And you see, the way that
3 they regulate that has even changed the whole food
4 contact substance issue. But the reason why the
5 commingling is a little bit different is because, in the
6 handling of product, you want to make sure that, as a
7 consumer, when you're purchasing an organic apple, you
8 are buying an organic apple and not a conventional
9 apple, because they both look the same. So in handling
10 the products, you want to make sure that you're not
11 mixing conventional and organic apples together by
12 chance, selling the wrong type of product to the final
13 consumer.

14 CHAIRPERSON RIDDLE: And I would just add
15 that, you know, the answers here are an attempt to
16 explain what is in the regulation, and the regulation
17 puts certain restrictions on packaging material, but
18 that's it. And then it also puts other restrictions on
19 contact with prohibited substances. So it's not an
20 attempt to kind of define purity, but rather what is
21 allowed under the regulation and not --

22 MS. JAMES: I understand that, but it is -- it
23 is inconsistent with some of the other things that we
24 are saying, in my opinion. In my opinion, it is. And
25 I'm not -- I just -- I mean, I see -- and I know we're

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1 not supposed to be talking about packaging at this
2 level, but -- so I'll just leave it at that.

3 CHAIRPERSON RIDDLE: Any other comments?

4 ***

5 [No response]

6 ***

7 CHAIRPERSON RIDDLE: Seeing none, we will move
8 to the vote on the waxed boxes Q and A. And Rigo.

9 MR. DELGADO: Yes.

10 CHAIRPERSON RIDDLE: He says yes. Hugh?

11 MR. KARREMAN: Abstain.

12 CHAIRPERSON RIDDLE: Abstain. Julie?

13 MS. WEISMAN: Yes.

14 CHAIRPERSON RIDDLE: Julie votes yes. Gerald?

15 MR. DAVIS: Ye.

16 CHAIRPERSON RIDDLE: Mike?

17 MR. LACY: Yes.

18 CHAIRPERSON RIDDLE: Nancy?

19 MS. OSTIGUY: Yes.

20 CHAIRPERSON RIDDLE: Dave?

21 MR. CARTER: Yes.

22 CHAIRPERSON RIDDLE: Bea?

23 MS. JAMES: Abstain.

24 CHAIRPERSON RIDDLE: George?

25 MR. SIEMON: Yes.

1 CHAIRPERSON RIDDLE: Rose?

2 MS. KOENIG: Yes.

3 CHAIRPERSON RIDDLE: Goldie?

4 MS. CAUGHLAN: Yes.

5 CHAIRPERSON RIDDLE: Kevin?

6 MR. O'RELL: Yes.

7 CHAIRPERSON RIDDLE: Andrea?

8 MS. CAROE: Yes.

9 CHAIRPERSON RIDDLE: The Chair votes yes, so
10 we have 12 yes, 0 no, and 2 abstentions. Okay, does
11 that conclude the Crops Committee action items?

12 MS. OSTIGUY: Yes, it does.

13 CHAIRPERSON RIDDLE: Okay. Well, believe or
14 not, that concludes our action items and --

15 MR. O'RELL: Are you going to let us go?

16 CHAIRPERSON RIDDLE: Yes, but not without just
17 a instruction for tomorrow. The first item on our
18 agenda is committee work plans. And you know, I think
19 what we did in October the last time was very valuable,
20 where it's not just a run-through quickly, but actually
21 a bit of a presentation and to prioritize those and
22 allow a little discussion, just so people understand
23 what the other committees are doing. So I don't know if
24 any of your committees need to meet or if the committee
25 chairs can just present those. I leave that to the

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1 discretion of the chairs to make that. But there's
2 certainly a number of important items to stay on the
3 work plans. Any other final words before we recess for
4 today? Arthur?

5 MR. NEAL: I just want to commend you for
6 moving and conducting these last sessions in a very
7 product fashion, because you had a lot on your agenda
8 and you stayed the course. You managed to get in about
9 six hours of public comment and cram in some work, and I
10 want to commend you on that, because I know it's a
11 daunting task over the last couple of days.

12 MR. SIEMON: Does that mean you're buying?

13 MR. NEAL: No, that means we try to get some
14 of the -- lessen the agenda items for the next meeting.

15 CHAIRPERSON RIDDLE: Yeah. And -- and also,
16 you know, we do have quite a few people signed up for
17 public comment tomorrow, and it's really important that
18 we all stay here and, you know, through public comment,
19 which is scheduled to end at noon. If we close early,
20 fine, but -- okay.

21 MR. O'RELL: Are we going to respect the noon
22 recess for those who have travel plans?

23 CHAIRPERSON RIDDLE: Yeah. Yeah, yeah.
24 Right. Well, I think it's 12:15. Okay, anything else
25 for today, otherwise we begin again at 8:00 a.m.

1 tomorrow? George? All right, thanks.

2 ***

3 [End of proceedings]

4 * * *

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HELD AT: Washington, D.C.

DATE: March 2, 2005

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